

DDA 88-0691X



FOREIGN RELATIONS AUTHORIZATION ACT
FISCAL YEARS 1988 AND 1989
P.L. 100-204
SECTION 137

DOCUMENT LOANED
DO NOT DESTROY
RETURN TO
GENERAL REGISTRY
7/24/88

STUDY AND REPORT
CONCERNING THE STATUS OF INDIVIDUALS
WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES

PREPARED BY
UNITED STATES
DEPARTMENT OF STATE
MARCH 18, 1988



FOREIGN RELATIONS AUTHORIZATION ACT
FISCAL YEARS 1988 AND 1989
P.L. 100-204
SECTION 137

STUDY AND REPORT
CONCERNING THE STATUS OF INDIVIDUALS
WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES

PREPARED BY
UNITED STATES
DEPARTMENT OF STATE
MARCH 18, 1988

TABLE OF CONTENTS

TAB A - Study

TAB B - Report

TAB C - Exhibits

TAB D - Analysis of Senate Amendment

A

FOREIGN RELATIONS AUTHORIZATION ACT

FISCAL YEARS 1988 and 1989

SECTION 137

(Part A)

Study of the Minimum Liability Insurance Coverage
Required for Members of Foreign Missions
and Their Families

EXECUTIVE SECRETARIAT
ROUTING SLIP

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI		X (w/o Report)		
2	DDCI		X (w/o Report)		
3	EXDIR		X (w/o Report)		
4	D/ICS				
5	DDI				
6	DDA				
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OCA				
14	D/PAO				
15	D/PERS				
16	D/Ex Staff				
17					
18					
19					
20					
21					
22					
SUSPENSE _____ Date					

Remarks

Full report (150 + pages) being
routed thru OCA, OGC & DDA.

STAT

Executive Secretary

United States Department of State

The Chief of Protocol
Washington, D.C. 20520

Executive Registry

88-0373x/1

March 28, 1988

Dear Bill:

I wanted to keep you informed of developments pertaining to Congressional interest in diplomatic immunity and therefore am forwarding the enclosed copy of the Department's response to a Congressional request for a report on the subject.

With best wishes,

Sincerely,


Selwa Roosevelt

Enclosure:

Copy of Report dated March 18, 1988.

The Honorable
William H. Webster,
Director of Central Intelligence.

DCI
EX-10

SECTION 137

(Part A)

**Study of the Minimum Liability Insurance Coverage
Required for Members of Foreign Missions
and Their Families**

A study is being prepared under contract and will be submitted as a part of this report if available by Wednesday, March 16, 1988. In the event the study is not available at that time, it will be submitted separately.

B

FOREIGN RELATIONS AUTHORIZATION ACT

FISCAL YEARS 1988 and 1989

P.L. 100-204

SECTION 137

REPORT

(Part B)

Concerning the Status of Individuals
with Diplomatic Immunity in the United States

FOREIGN RELATIONS AUTHORIZATION ACT
FISCAL YEARS 1988 and 1989

SECTION 137

(Part B)

Table of Contents

Page

- | | | |
|----|-----------|---|
| 1 | 137(b)(1) | The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States. |
| 9 | 137(b)(2) | A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem. |
| 10 | 137(b)(3) | The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning:

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States. |
| 11 | 137(b)(4) | Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties. |

(i)

- 15 137(b)(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.
- 20 137(b)(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.
- 25 137(b)(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.
- 32 137(b)(8) The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.
- 35 137(b)(9) A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

(ii)

- 36 137(b)(10)(A) A review of the definition of the term "family" under the Diplomatic Relations Act.
- 137(b)(10)(B) An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.
- 137(b)(10)(C) An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.
- 54 137(b)(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.
- 56 137(b)(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

ATTACHMENTS

Exhibits (see list of exhibits on page iv).

Exhibit C (Guidance for Law Enforcement Officers)

Analysis of Proposed Senate Amendment.

(iii)

ENCLOSURES

Index of Exhibits

EXHIBIT

- | | | | |
|---|---|-------|--|
| A | Statistics: | (A-1) | Unpaid Debts - Missions in Washington, D.C. |
| | | (A-2) | Unpaid Debts - UN Missions |
| B | Statistics: | (B-1) | Alleged Criminal Cases - Missions in Washington, D.C. |
| | | (B-2) | Alleged Criminal Cases United Nations Missions |
| | | (B-3) | Diplomatic Motor Vehicle Operation Violations,- Missions in Washington, D.C. |
| C | "Guidance for Law Enforcement Officers: Personal Rights and Immunities of Foreign Diplomatic and Consular Personnel" | | |
| D | Law Enforcement and the Diplomatic Community - Schedule of Seminars 1988 | | |
| E | Seminar on Law Enforcement and the Diplomatic Community: March 1, 1988 Agenda | | |
| F | Circular Diplomatic Notes Dated May 1, 1985 and November 5, 1986 | | |
| G | Circular Diplomatic Note Dated January 22, 1982 | | |
| H | Circular Diplomatic Note Dated May 22, 1986 | | |
| I | Circular Diplomatic Note Dated February 2, 1987 | | |
| J | Circular Diplomatic Note Dated September 21, 1987 | | |
| K | Copy of outgoing cable and a summary of the responses re: Survey of Practice Regarding "Family Forming Part of Household" | | |
| L | U.S. - Soviet Union Agreements: Agreement of 10/31/86 - Exchange of Notes | | |
| M | Philippines: Exchange of notes re: most-favored-nation clause | | |
| N | USUN Circular Diplomatic Note Dated March 16, 1987 | | |
| O | Statistics: Family Members Entitled to Immunity - Washington, D.C.; New York City; Outside Washington, D.C. and New York City, by category and type of immunity | | |

STATE DEPARTMENT AUTHORIZATION ACT, SECTION 137

(Part B)

137(b)(1) The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

A. DEBTS OWED BY FOREIGN MISSIONS

1. Nature and Scope.

The immunity from suit of foreign missions, as opposed to their personnel, is governed by the principle of sovereign immunity and not by diplomatic immunity, which applies to individuals. The rules that apply to suits against foreign governments (including embassies and consulates) in United States courts are set forth in the Foreign Sovereign Immunities Act (FSIA), 28 U.S.C. 1602 et seq.

The FSIA codifies the "restrictive theory" of sovereign immunity, pursuant to which foreign States are immune for governmental acts but not for private acts, including commercial activity. The courts, not the Executive Branch, decide whether a foreign State is immune in a particular case. One section of the FSIA provides that foreign States have no immunity in an action "based upon a commercial activity carried on in the United States by the foreign State." 28 U.S.C. 1605(a)(2). The FSIA defines commercial activity as --

"either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose." 28 U.S.C. 1603(d).

Congress specifically addressed embassy debts in its consideration of the FSIA. "[C]ontract[s] to make repairs on an embassy building. . . should be considered commercial contracts, even if their ultimate objective is to further a public function." H. Rep. No. 1487, 94th Cong. 2d Sess. 16 (1976), reprinted in 1976 U.S. Code Cong. Ad. News 6604, 6615.

If a court concluded that a suit to collect an alleged mission debt was based on commercial activity, it would have jurisdiction in the case. If the plaintiff prevailed in the case and the foreign government failed to honor the judgment, the plaintiff would be able to execute the judgment against certain property of the foreign State, as specified in 28 U.S.C. 1610. Section 1610 allows execution of judgments, inter alia, against commercial property of the foreign State located in the United States that is or was used for the commercial activity upon which the claim was based. It prohibits, however, execution against real property that is used for the purposes of maintaining a diplomatic mission or consular post, which is inviolable under international law.

The principle of diplomatic immunity may have other effects on suits against foreign embassies arising out of embassy debts. For example, embassy officers cannot be compelled to

testify, even in suits against their government. In addition, the inviolability of embassy archives limits the court's ability to order discovery. However, in a case in which the court determines that it has jurisdiction and the foreign government contests liability, it is generally in the interest of the foreign government to waive such immunity in order to make its case to the court.

2. Collection Measures the Department Employs.

Although not requested, a current summary of outstanding claims against foreign missions and their members on which the Department's assistance has been sought is provided herewith (Exhibit A). As evident from the small number of claims listed, in light of the number of diplomatic and UN missions and the population of members thereof who are immune from civil suit, the problem of unpaid debts by missions and their personnel has not been substantial.

In general, the Department can intervene to help secure payment of a mission's debt. Normally the Department first asks the aggrieved party to submit the facts and circumstances of the case in writing to the Office of Protocol, if it concerns an embassy debt, or, if it concerns the debt of a UN mission, to the Office of Host Country Affairs, U.S. Mission to the United Nations (USUN). Protocol or USUN then determines whether there is sufficient basis for the U.S. Government to

raise the matter with the foreign government. Usually this is done by taking the matter up with the head of mission or his authorized representative. If this approach is unsuccessful, the responsible office normally sends a letter to the chief of mission requesting cooperation in achieving a settlement. If the facts are in dispute, a mission representative is asked to meet with the claimant and his attorney, representatives of Protocol or USUN, and sometimes the Legal Adviser's Office and the regional bureau country officer. Protocol or USUN continues these efforts through subsequent periodic follow-up conversations and correspondence with mission officials.

Concurrently the Department sometimes sends a cable to our embassy in the sending State, instructing it to press the foreign office to resolve the problem. Our ambassador to the sending State also may be asked to exert his personal efforts in the cause.

The FSIA serves as a useful tool for the Department in addressing mission debts. The statute gives the creditor, and the Department, leverage which can be brought to bear upon the foreign mission. Of course, the Department is not in a position to determine whether a mission may be immune or liable in a particular case; this must be resolved by the courts. By alerting both missions and creditors to the existence of the FSIA, however, the Department can attempt to channel unresolved disputes into the courts, which are best equipped to handle such matters.

B. DEBTS OWED BY MEMBERS OF FOREIGN MISSIONS

1. Nature and Scope.

As noted, the vast majority of foreign diplomats do honor their debts. The combined population of persons entitled to full diplomatic privileges and immunities in Washington and New York exceeds ten thousand. When considered in relation to that figure, the number of debt cases on which the Department currently is working is small. (For particulars see response to reporting requirement 137(3)(b).)

The Diplomatic Relations Act of 1978 established the Vienna Convention on Diplomatic Relations as the legal framework governing the privileges and immunities to which the members of missions in the United States and their family members are entitled. Through the Act's repeal of the 1790 statute, diplomats no longer have the complete immunity from civil and administrative jurisdiction which they previously enjoyed; instead, immunity now does not obtain for (a) certain real property transactions not conducted on behalf of the mission; (b) any role the diplomat may play as executor for or heir to an estate being distributed in the host country; or (c) the performance of professional or commercial activities outside the scope of his official duties. Thus, there are certain

instances in which diplomatic agents and their dependents would not have immunity from civil and administrative jurisdiction if they fail to pay their debts.

Members of the administrative and technical staff of a mission enjoy civil immunity only for acts performed in the course of their official duties, and family members enjoy no civil immunity. Similarly, consular personnel enjoy immunity only for acts performed in the exercise of consular functions. Thus, in most cases, administrative and technical staff members and consular personnel would not be immune from suit relating to personal debts. However, pursuant to bilateral agreements, employees of the embassies of the Soviet Union, the German Democratic Republic, and the People's Republic of China are accorded the same immunity from civil and administrative jurisdiction as that enjoyed by diplomats. In addition, certain bilateral agreements accord a higher degree of immunity to consular personnel of some States on a reciprocal basis.

2. Measures the Department has Taken.

In light of immunity, creditors turn to the Department for assistance, and the Department generally intervenes to secure payment. The request for such assistance is made, in Washington, to the Office of the Chief of Protocol; for UN personnel to the Office of Host Country Affairs, USUN.

It is Department practice to intervene when the complainant can produce satisfactory evidence 1) that there is a sufficient basis for the Department to raise the matter with the mission; 2) that he has exhausted other methods of obtaining settlement (that is, has brought the matter clearly to the attention of the diplomat concerned and of the head of the diplomat's mission; and, 3) that immunity would preclude judicial or administrative action.

Resolution of a debt begins by the filing of a written claim with supporting details by the claimant or his agent. The Department brings the matter to the attention of the diplomat's embassy and requests that it promote a settlement. This frequently leads to a meeting in the Department which attorneys representing both sides attend and in which representatives of Protocol, and sometimes the Legal Adviser's Office, and the country desk officer participate.

In such a meeting, the Department brings to the embassy's attention the Resolution on the Consideration of Civil Claims which the presiding UN conference approved in April 1961 in connection with its approval of the Vienna Convention on Diplomatic Relations. This resolution contains the recommendation that "the sending State should waive the immunity of members of its diplomatic mission in respect of civil claims of persons in the receiving State when this can be

- 8 -

done without impeding the performance of the functions of the mission, and that, when immunity is not waived, the sending State should use its best endeavors to bring about a just settlement of the claims." Should immunity be waived, the matter can be adjudicated in the courts.

If a settlement is not reached within a reasonable period, the Department may inform the embassy that reliance on immunity to evade a legal obligation could call into question a diplomat's continued acceptability in the United States, or that the departure of a diplomat without settling his debt could affect the Department's willingness to accept and accredit his replacement.

Enclosure: EXHIBIT A - List of Outstanding Debts through February 29, 1988.

- 9 -

137(b)(2) A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem.

The attached catalog of incidents includes all cases of criminal offenses of which we are aware. Many of these cases involve misdemeanor charges and therefore are not considered serious crimes.

Enclosure: EXHIBIT B - Statistics.

137(b)(3) The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning:

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

It is certainly feasible for the Department of State to produce a periodic report on serious crimes and delinquent debts, as is shown by our report submitted last August, and the catalog we submit in sections 137(b)(1) and 137(b)(2) of this report (Exhibits A and B). The Department agrees that periodic reports on these matters to Congress may be appropriate. Accordingly, we propose that the Department of State submit an annual report concerning serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States, and delinquency of over six months in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States. However, we believe that no useful purpose is served by revealing to the public certain specific details such as the name of the individual or mission involved. Several foreign missions, in commenting on the proposed legislation in this area, have raised strong concerns about such a practice. Thus, we believe the report should be prepared in such a way as not to gratuitously impair friendly relations with sending States. Rather, it should assist the Department in resolving these cases with the foreign mission involved.

137(b)(4) Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties.

The purpose of diplomatic immunity is to ensure that diplomatic representatives are able to carry out the official business of their governments without undue influence or interference from the host country. Unfortunately, this purpose is often misunderstood by the general public in this country. The concept of immunity poses particular problems for law enforcement officials who, by virtue of their oath and training, are unaccustomed to granting special privileges or concessions to individuals who break the law. At the same time, law enforcement officials who understand the importance of diplomatic immunity may be inclined to be overly generous in its application if they do not have a full understanding of its rules. Thus, the Department has determined that it has become necessary to dispel certain misconceptions on the subject of diplomatic immunity, such as what categories of persons are entitled to immunity, the precise nature of immunity to which the individual is entitled, how to verify immune status, and what enforcement measures may and may not be taken against those with immunity.

Recognizing the need for improved education of law enforcement officials in this area, the Department of State has addressed the problem on two fronts. First, the Department in

March 1987 published a 21 page booklet entitled, "Guidance for Law Enforcement Officers: Personal Rights and Immunities of Foreign Diplomatic and Consular Personnel," (Exhibit C) which has been well received by law enforcement personnel. As indicated by the title, the booklet provides an understandable guide to the various categories of foreign mission personnel and the immunities to which they are entitled. It explains how to verify the identity of such persons and furnishes guidance to law enforcement officers handling incidents involving foreign diplomatic and consular personnel. Additionally, it makes clear that there are enforcement measures consistent with diplomatic immunity that may and should be taken when violations of the law occur. It stresses that in an incident involving a person entitled to immunity, the officer should record all pertinent details from the identity card and fully record the details and circumstances of the incident in accordance with normal police procedures. Proper documentation of incidents is essential to permit the Department of State to take consequential steps, should they be considered appropriate.

Several elements of the Department of State participated in the preparation of this document, including the Office of the Legal Adviser, the Office of Foreign Missions, the Office of Protocol, and the Bureau of Diplomatic Security. Since the summer of 1987 about 25,000 copies of the booklet have been distributed nationwide to federal, state and local law enforcement authorities by the Bureau of Diplomatic

Security and the Office of Foreign Missions. A second printing is in progress in order to meet the demand.

The Department of State has also developed a training seminar on the subject of diplomatic immunity to further the education of law enforcement officials in this area. Organized and funded by the Bureau of Diplomatic Security, the seminars are conducted in conjunction with the Office of Foreign Missions and the Office of Protocol. The first of these one-day seminars was presented on August 18, 1987 in the Washington metropolitan area to approximately 70 federal, state and local law enforcement officials who represented 22 different law enforcement agencies and departments. The second was held in Philadelphia on March 1, 1988, for 68 law enforcement officers representing 55 federal, state and local law enforcement agencies and departments. Topics covered included how to identify persons with diplomatic immunity, how to handle incidents involving such persons, and the registration, licensing and insuring of diplomatic vehicles as well as the issuance of driver's licenses by the Department of State.

During 1988 the Bureau of Diplomatic Security plans to conduct four additional seminars throughout the United States, primarily in areas with high concentrations of foreign consular personnel such as Miami, Chicago, and Houston/Dallas. The schedule for the 1988 seminars (Exhibit D) and a typical program for a one-day seminar are attached (Exhibit E).

Enclosures: EXHIBIT C - "Guidance for Law Enforcement
Officers: Personal Rights and Immunities of
Foreign Diplomatic and Consular Personnel"

EXHIBIT D - Law Enforcement and the Diplomatic
Community - Schedule of Seminars for 1988.

EXHIBIT E - Agenda of Seminar on Law Enforcement
and the Diplomatic Community, March 1, 1988.

137(b)(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.

1. Background

Although immunity provides that certain foreign officials are not subject to the jurisdiction of local courts or other authorities for official or personal activities, diplomatic immunity does not exempt mission personnel and their family members from the obligation to respect the laws and regulations of the host country. Diplomatic immunity is not a license for such persons to flout the law and avoid liability for their actions. Understandably, this has been an area of some confusion on the part of the general public, as well as of some in the law enforcement community.

Members of diplomatic missions are accountable for their behavior, and law enforcement officers should not ignore the alleged commission of crimes by such persons. In this regard, it is necessary to clarify the nature and extent of diplomatic immunity in order to more fully inform the law enforcement community. We recognize the importance of assuring that law enforcement officials fully investigate, document, charge, institute and prosecute foreign mission personnel or their families to the extent consistent with the Vienna Convention.

2. Measures the Department Employs in Dealing with this Concern.

Improved education is the key to ensuring that law enforcement officials understand both what can be done to deal properly with those with immunity and the need to exercise high standards of police investigation and reporting in incidents of crime allegedly committed by persons with diplomatic immunity. The Department has already taken steps to improve the education of law enforcement officials by developing reference materials and training seminars on the subject of diplomatic immunity. These activities are described in detail in the response to 137(b)(4). The goal of this ongoing process is to impress upon the law enforcement community that, notwithstanding their entitlement to diplomatic immunity, foreign diplomats posted in this country are obliged to respect the laws and regulations of the United States and can be held accountable for violations. Emphasis also is given to the importance of prompt reporting of criminal offenses allegedly committed by persons with diplomatic immunity to the Department of State, and of carefully documenting such incidents in accordance with normal police procedures. Even when immunity bars prosecution, the Department has diplomatic remedies available to it to deal effectively with abuses of members of the diplomatic community.

3. New Measures the Department is Considering to Address this Concern.

The Department plans to increase its interaction with the law enforcement community on the subject of diplomatic immunity. To this end, we offer the following proposals. Addressing the International Association of Chiefs of Police (IACP) provides one opportunity. A Department of State presentation on diplomatic immunity as it relates to local law enforcement would be a significant contribution to increasing understanding of these issues. Along the same line, the publication of periodic Department of State bulletins in the National Law Enforcement Telecommunications System (NLETS) on various aspects of handling criminal offenses in the context of diplomatic immunity should have similar positive results. NLETS is a computer-controlled message switching system which links state, local and federal law enforcement and criminal justice agencies for information exchange.

It also would be beneficial for our Bureau of Diplomatic Security field offices in areas with large concentrations of foreign mission personnel to advise local authorities on standard procedures for dealing with criminal infractions allegedly committed by diplomatic or consular personnel. This is a residual benefit of the current training seminars on diplomatic immunity sponsored by the Department around the country.

In sum, we believe that improved education of law enforcement officials on the limited scope of diplomatic immunity and what can and should be done in dealing with incidents involving individuals with immunity, coupled with greater coordination between the Department of State and the law enforcement community, should ensure the complete accountability of diplomatic personnel for any criminal or other untoward activity.

Although not included in the bill that became law, Section 1004 of the proposed Foreign Relations Authorization Act, passed by the Senate on October 8, 1987, would have required the issuance of a summons whenever an individual with diplomatic or consular immunity is alleged to have committed a serious offense. There are important drawbacks to this proposal; one is that the issuance of the summons is an exercise of jurisdiction and would appear to conflict with our treaty obligation to recognize the immunity from jurisdiction for such individuals. Further, the requirement that a summons be issued before the Department can act would prevent the Department from proceeding as early as possible on the basis of the facts of the situation. Finally, the Federal government lacks authority to compel issuance of a summons for state or local offenses.

Section 1011 of the same legislation also proposed that procedures be instituted to require that the foreign minister of a sending State request formally that immunity be invoked

for any member of their foreign mission staff accused of a serious offense. This proposal errs in assuming that immunity must be claimed in order to exist. Rather, under international law immunity exists and must be recognized by the receiving State unless expressly waived. We believe that the Congressional desire to ensure that these matters are brought to the attention of foreign ministries could be met by requiring the Department to inform a foreign ministry when a serious offense has been alleged.

137(b)(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.

The procedures established for the issuance and revocation of A visas are adequate to ensure compliance with the requirements of this visa classification in the overwhelming majority of cases.

In analyzing the A visa classification, as in analyzing any visa classification, it should be noted that the consular officer is the primary adjudicator in the visa system. Sections 221 and 104(a)(1) of the Immigration and Nationality Act (INA) specifically grant to consular officers the exclusive authority to issue or refuse visas. The INA and the Department's regulations and instructions provide specific requirements for visa issuance and the consular officer must be personally satisfied that all the pertinent requirements are met before any visa is issued.

Under current procedures, consular officers issue A visas upon receipt of a diplomatic note from the Foreign Ministry which substantiates the alien's entitlement to the A visa. Generally, these notes are accepted as honest statements of fact. Yet the consular officer has the responsibility to verify that all the visa requirements have been satisfied. In this connection, the Department encourages conscientious

inquiry and scrutiny by the consular officer. Thus, in cases where questions arise, it is the officer's duty to make the necessary inquiries to resolve any doubts. Such inquiry does not provide for a fail-safe system, but is adequate to prevent abuse in the vast majority of cases.

After issuance of the visa, however, the Department has no way of keeping track of the A visa bearer. A large percentage of A visa bearers admitted to the U.S. never become part of a diplomatic or consular mission. In any event, the Immigration and Naturalization Service (INS) does not inform the Department of State of the admission of A visa bearers. Moreover, subsequent to admission, the Department has only limited contact with the A visa bearer. After admission, the Department only encounters the A visa bearer when the foreign country's mission in the U.S. notifies the Office of Protocol of the alien's arrival and position at the embassy, consulate, or other office in the U.S. (at this point, privileges and immunities are determined^{1/}), if the Visa Office is asked to revalidate an expired visa, or in the rare case when the Visa Office must cancel a visa of an alien requested to depart the U.S.

^{1/} It should be noted that issuance of an A visa to a foreign diplomat or consul does not entitle that person to privileges and immunities. Rather, the foreign diplomatic or consul is not entitled to privileges and immunities unless and until he/she is registered with the Department of State and accepted in a status entitling him/her to such privileges and immunities.

Any coordinated procedure involving INS, the Department of State and the foreign missions would limit abuses of A visas; the feasibility of enacting such a procedure, however, may be tempered by the administrative and reporting burden generated. Approximately 65,000 A visas are issued annually; we believe relatively few visas would actually be questioned or cancelled by these means and the additional workload and cost effectiveness of any tracking procedure must be carefully evaluated.

If an alien entitled to immunity allegedly commits a criminal offense or some other act which causes the U.S. Government to request his/her departure from the U.S., the visa revocation procedure, instituted pursuant to Section 221(i) of the INA, is initiated. Under this procedure, the Office of Protocol notifies the Visa Office and requests that the visa be revoked, that the alien's name be entered in the visa lookout system and that the INS be informed. If for some reason the passport cannot be obtained for physical cancellation of the visa before the alien departs the U.S., appropriate consular posts are instructed to cancel the visa physically. If not physically cancelled in the U.S. or abroad, the information in INS' lookout system precludes the alien's readmission at some later date in A visa status.^{2/}

^{2/} Once the departure of an alien with privileges and immunities has been requested, that person only has these privileges and immunities for a reasonable time after this request, usually 30 days. After that period of time has elapsed, the fact that the alien may continue to have an A visa will not entitle him/her to any privileges and immunities.

The cancellation of the A visa does not preclude the alien from seeking issuance of a visa of another classification or seeking admission to the U.S. under a different visa classification if he is otherwise eligible. Revocation or cancellation of the A visa would not automatically result in a section 212(a) ground of ineligibility which could bar the alien's readmission to the U.S. as, for example, a tourist or student.

If, however, the alien has allegedly committed a criminal offense, a warrant may have been issued for the alien's arrest. This information is available in the visa lookout system to consuls, who are then in a position to inform the alien and discourage him/her from traveling to the U.S. If the alien persists and is otherwise qualified for a visa, the consul can limit the visa to conform to the alien's specific travel plans and have the appropriate law enforcement agencies notified. The alien could then be apprehended upon arrival in the U.S.^{3/}

^{3/} Were the entry of these aliens under a different visa category to become a significant problem, presumably, the President, under section 212(f) of the INA, could declare such persons to be a class of aliens whose entry into the U.S. would be detrimental to the interests of the U.S. and therefore ineligible to receive a visa.

The period of validity of an A visa and the number of entries permitted by this classification vary from country to country as they are based on reciprocity. Furthermore, current procedures do not provide for cancellation of visas upon normal, end-of-tour departure from the U.S. The Department is currently considering whether uniform validities (for example, one entry, three months) or routine cancellation of unexpired A visas would greatly reduce the number of A visa abuses and whether in light of fiscal constraints such a procedure would be cost effective.

137(b)(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.

The Office of Protocol is responsible for the registration and documentation of personnel of the foreign missions in Washington and missions to the Organization of American States. Protocol is also responsible for the registration and documentation of Principal Resident Representatives to the International Bank for Reconstruction and Development and to the International Monetary Fund. In addition, Protocol is responsible for the registration and documentation of the personnel of foreign consulates throughout the United States.^{1/}

The Department's registration process operates as follows: For every person appointed as a diplomatic agent, member of the administrative and technical staff or of the service staff of an embassy, and consular officer or employee, the foreign mission must file the proper Department of State notification of appointment or employment status form. Each completed form

^{1/} Consular personnel are immune from the jurisdiction of the U.S. with respect to acts performed in the exercise of their consular functions. In addition, career consular officers possess a degree of personal inviolability, in that they "shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority." Moreover, pursuant to bilateral agreements, full criminal immunity is enjoyed on a reciprocal basis by the personnel, as well as by members of their families, of the consulates of the People's Republic of China, Hungary, Poland, the Philippines, and the USSR.

must reflect the individual's nationality, visa status, applicable diplomatic, consular, or other title, and effective date of appointment or assumption of duties. Also reported on these forms are the names, date and place of birth, nationality, and visa status of spouse, accompanying children, and any other family members in the signer's household. Each such form, which contains additional pertinent biographic and other data, must be signed by the appointee and carry the signature of the Chief of Mission or an authorized deputy, as well as the official seal of the mission. Completed forms are then submitted to the Department, accompanied by passport-size photographs of the principal and spouse taken within the last twelve months.

Accreditation and registration officers review all these forms for consistency with the criteria for accreditation of diplomats, recognition of consular officers, and registration of mission staff members in accordance with the Department's diplomatic notes of May 1, 1985 and November 5, 1986, copies of which accompany this report as Exhibit F. When accreditation eligibility questions arise in the course of this examination, cases are brought to the attention of superiors, and if further consultation is necessary, they are reviewed by the Accreditation Review Panel. This Panel functions under the co-chairmanship of the Office of Foreign Missions and the Office of Protocol and includes representatives of the Under Secretary for Political Affairs, the Legal Adviser's Office,

the Bureau of International Organization Affairs, the Bureau of Diplomatic Security, the Bureau of Consular Affairs, and the Family Liaison Office. Its primary purpose, as connoted by its title, is to review and establish accreditation policy.

Once the review process has been completed and any questions resolved, all pertinent data are entered in the computerized record system, which makes the information instantly retrievable for individual name checks and quickly available for personnel listings both in Protocol and in the United States Mission to the United Nations.

Additions and changes to accreditation and registration records, such as promotions, transfers, terminations, name changes, and the birth of dependents, are all entered into the database. These changes are contemporaneously made in master copies of the current issues of three publications: the "Diplomatic List," "Employees of Diplomatic Missions," and "Foreign Consular Offices in the United States." The first two are brought out on a quarterly basis; the third, twice a year. The entry into the database of all accessions and terminations has made it possible for Protocol to receive each week printouts of the cumulative changes in these two categories for both diplomats and employees, by country, since publication of the latest lists, which form an important addition to the materials provided in duty officer kits.

Concurrently with being entered into the computer, termination notices precipitate the transfer of diplomats' and employees' hard-copy records from active to inactive files, where they are maintained in Protocol until permanent retirement.

The Office of Host Country Affairs is responsible for the registration and documentation of members of permanent missions to the United Nations who, with their family members, are recognized by the Department of State as entitled to diplomatic privileges and immunities in the territory of the United States under the provisions of Section 15 of the Headquarters Agreement between the United States and the United Nations (Public Law 357 - 80th Congress). It is also responsible for the registration and documentation of the Secretary-General and all Assistant Secretaries-General of the United Nations, who, together with their spouses and minor children, are likewise entitled to diplomatic privileges and immunities, pursuant to Section 19 of the Convention on Privileges and Immunities of the United Nations (21 UST 1418).

The USUN registration system differs from that of the Office of Protocol, since the Host Country Affairs Office of USUN performs a ministerial rather than a discretionary function. This is so because the United Nations is the

accrediting agency, and therefore the UN missions submit the notification forms on their new members to the UN Protocol Office, which determines whether UN accreditation criteria have been met, transcribes the essential data onto its own forms, and forwards those forms to USUN's Office of Host Country Affairs for entry into the Department's records system and database and the issuance of credentials. USUN puts out a semiannual publication, "Permanent Missions to the United Nations," which lists the officers of each mission entitled to diplomatic privileges and immunities. A master copy of that publication reflecting all terminations, additions, and other changes is kept current by USUN, forming the basis of the next issue.

In addition to the registration process we have described, recently developed photo I.D. cards, with distinctive color-coded borders and language indicating the level of immunity of the bearer as well as 24 hour contact numbers for inquiries, are now being issued to members of the diplomatic communities in Washington and New York, replacing the old-style identification documents issued over the years.

Diplomats and members of missions to the United Nations and the Organization of American States entitled to diplomatic privileges and immunities who have not yet received the new credentials can readily be identified as possessing diplomatic immunity through the I.D. cards previously issued to them.

However, law enforcement authorities are not, without making inquiry of the Department, able to establish the immunity status of employees of the diplomatic missions because these personnel have not yet received the new identification cards, and they had not previously been issued cards documenting their status. In these cases it is necessary for local authorities to contact the Department to verify the status of a person claiming immunity, and the level of immunity to which the individual is entitled. The Department can identify all individuals entitled to immunity from the hard-copy records in its files, augmented by information in the database, and after normal hours through the supplements to published lists contained in the duty officer kits.

The Department's "Guidance for Law Enforcement Officers" urges law enforcement authorities not to rely upon even the new identification cards, but instead to seek verification from the Department in connection with any serious incident, or in any case where they have reason to question the validity of the card. We expect that the new cards will reduce uncertainty about the status of individuals claiming immunity and of the level of immunity that each individual should receive. The Department will, however, continue to urge law enforcement officials to contact the Department to verify status, even when all personnel carry the new cards.

The Foreign Relations Authorization Act for 1988/89, as passed by the Senate, would have required the Department to develop and implement procedures for the registration and departure of diplomats and their families. As illustrated above, the Department already has well established procedures for the registration of diplomats.

Upon departure, diplomatic personnel are required to fill out Form DS-1497a, "Notice of Departure of Foreign Diplomatic Officer," and submit the form to the Office of Protocol. Similarly, other government personnel are required to fill out Form DS-394a, "Notice of Termination of Employment with a Foreign Government," and submit it to the Office of Protocol. Identification cards are returned with these submissions. The Department plans to devise a system whereby all credentials as well as license plates will be returned to the Department with the termination forms.

The United Nations requires members of permanent missions who are leaving to file a form entitled "Notification of Final Departure of Members of Permanent Missions to the United Nations," and submit the form to the United Nations Protocol Office. The information from these forms is compiled by the U.N. and submitted to the U.S. Office of Host Country Affairs twice monthly.

Enclosure: EXHIBIT F - Circular Diplomatic Notes Dated May 1, 1985 and November 5, 1986.

137(b)(8)

The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.

We have described in detail in Section 137(b)(7) the records systems that are maintained on diplomatic and consular personnel in Washington by the Office of Protocol, and on UN missions in New York by our mission to the U.N. We have also described there the improved identification credential cards now being issued to such personnel which reflect the degree of immunity enjoyed by each bearer, and the periodic publications of lists of diplomats and others entitled to diplomatic immunity. In addition, the Department's booklet, "Guidance for Law Enforcement Officers," described in Section 137(b)(4), devotes an entire chapter to "Identification of Persons Entitled to Privileges and Immunities in the United States." That chapter provides a comprehensive discussion of the various means by which police officials can identify the status of an individual, but also stresses the importance of verification in questionable cases by telephonic inquiry to offices in Washington and New York, and provides telephone numbers for use both during and after normal business hours.

In short, the Department has an effective and reliable system in place for readily identifying the immunity status of any member of a foreign mission in the United States who may become involved in a serious crime in the United States. The Department, however, must rely on local law enforcement authorities to inform the Department promptly about incidents involving diplomats or others who possess immunity from criminal jurisdiction so that we can proceed immediately to take any necessary action.

Due to certain misconceptions regarding the scope of diplomatic immunity, there has been a seeming tendency by some in the law enforcement community to dismiss or overlook such offenses in some instances. However, this problem is being overcome through the efforts of the Department's Bureau of Diplomatic Security. The responses in Sections 137(b)(4) and (5) contain a comprehensive discussion of all aspects of the problem and a number of steps that have been and are being taken to improve the education of law enforcement officials in this regard and to strengthen the Department's links with the law enforcement community. We believe that these efforts should ensure the complete accountability of diplomatic and consular personnel for any criminal activity.

Discussion of the extent to which existing law may be inadequate to prevent subsequent readmission of former diplomats removed from the United States for alleged involvement in serious crime is set forth in the response to Section 137(b)(6).

137(b)(9)

A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

As nations already tend to reciprocate in their treatment of diplomats, it is the Department's experience that the procedures for processing the equivalent of A visas for United States diplomats by foreign nations is the same or similar to the Department's procedures. The generally accepted international practice for the issuance of diplomatic visas is for the sending State to submit to the embassy of the receiving State a diplomatic note which identifies the diplomat and the purpose and length of his/her mission. These notes are generally accepted as honest statements of fact. Accompanying the note is the applicant's passport and, on the basis of reciprocity, a completed visa application form and photo(s). The same procedures apply to family members who either travel with or follow to join the diplomat.^{1/}

^{1/} The issuance of visas to diplomats to international organizations is handled by the organization's host country. In issuing such visas, the host country generally imposes the same procedures as it does on the issuance of visas to diplomats to the country itself.

- 137(b)(10)(A) - A review of the definition of the term "family" under the Diplomatic Relations Act.
- 137(b)(10)(B) - An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.
- 137(b)(10)(C) - An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.

Report on the Definition and Scope of "Family" under the Diplomatic Relations Act.

Subsection 10(A): Review of Definition of "Family."

The present definition of family in the Diplomatic Relations Act, 22 U.S.C. 254a(2), is as follows:

(2) the term "family" means --

(A) the members of the family of a member of a mission described in paragraph (1)(A) who form part of his or her household if they are not nationals of the United States, and

(B) the members of the family of a member of a mission described in paragraph (1)(B) who form part of his or her household if they are not nationals or permanent residents of the United States, within the meaning of the Vienna Convention [on Diplomatic Relations].

Article 37 of the Vienna Diplomatic Convention states, in pertinent part,:

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties.

Articles 29 through 36 of the Vienna Diplomatic Convention provide for:

- personal inviolability (Article 29)
- inviolability of premises and papers (Article 30)
- immunity from criminal jurisdiction, almost complete immunity from civil and administrative jurisdiction, and freedom from the obligation to give evidence as a witness (Article 31)
- waiver of immunity (Article 32)
- exemption from social security provisions (Article 33);
- almost complete exemption from dues and taxes (Article 34)
- exemption from all personal services and military obligations (Article 35)
- duty free entry for official and personal articles and exemption from search of personal baggage unless there are serious ground to believe it contains illegal articles (Article 36).

Development of Vienna Convention Definition

In practice, it has always been accepted that the spouse and children of a diplomat were entitled to the same privileges and immunities as the diplomat himself. In the International Law Commission and the Vienna Conference there was, apparently, no dispute over the provision in Article 37(1) extending full diplomatic privileges and immunities to the family of a diplomatic agent. However, there was great difficulty at the Vienna Conference in defining "family;" the privileges and immunities granted to family were clearly derivative, in that the wife and children, as close members of the family, were regarded as extensions of the person of the diplomat, and their protection was necessary to secure the diplomat's independence. Thus, use of the definition "forming part of his household," conformed to traditional international practice, but the differing concepts of the term "family" around the world made it impossible for the States to reach a definition at the Vienna Conference. The drafters left the matter to be resolved according to the standards of the respective receiving States and on the basis of reciprocity. While it is clear that spouses (including husbands) and minor children are universally accepted as members of the family, the resolution of the term "family" for other persons is usually determined by the practice of the receiving State. Denza, Diplomatic Law, 223-24.

U.S. Practice with Regard to Definition of Family

Over the past six years the United States has adopted definitions of family that have been communicated to the missions by means of circular notes. Beginning in 1982, the United States revised the definition of "immediate family" in regulations implementing the Immigration and Nationality Act at 22 C.F.R., Part 41. The new definition provided that "immediate family" for the purposes of eligibility for A-, G-, or NATO visa classification:

[I]ncludes the spouse, unmarried sons or daughters, whether by blood or adoption, of the principal alien who are not members of some other household, and who will reside regularly in the household of the principal alien. "Immediate family" also includes, upon individual authorization by the Department of State, other close relatives who are members of the immediate family by blood, marriage, or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien. The persons in this latter category must also be recognized as dependents by the sending Government as demonstrated by their eligibility for all rights and benefits, such as the issuance of a diplomatic or official passport and travel and other allowances, which would be granted to the spouse and children of the principal alien.

(Circular Note of 1/22/82. Attached as Exhibit G.)

In 1986, the Department further defined "family ... forming part of ... household" for the express purpose of application in the United States of the Vienna Convention on Diplomatic Relations. This definition provided:

[T]he spouse of a member of the mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who reside exclusively in the principal's household. Additionally, the term 'family' includes children under 23 years of age who are attending an institution of higher learning on a full-time basis. Other persons who are not members of some other household, who reside exclusively in the principal's household, under exceptional circumstance and with express approval of the Department of State, may also be considered 'family' for the purposes of the Vienna Convention. In such exceptional cases, the sending State must formally request consideration by the Department of State and must include full justification for the requested exception.

Taking into account that members of the family may not be accompanying the principal during the assignment to Washington but may nonetheless join the household for visits or during holiday periods, such persons as otherwise fall within the definition specified above also are considered to be family members for the purposes of the Vienna Convention.

(Circular Note of 5/22/86. Attached as Exhibit H.)

A follow-up note to the May 22, 1986 note was sent on February 2, 1987. This circular note advised the missions of the definition adopted by the United States and informed the missions that once a family member reached the age of 21, all privileges and immunities to which that person had been previously entitled in the United States would expire within 30 days. If the person involved were a full-time student, the mission must send a note to the Office of Protocol within 30 days formally requesting continuation of "family" status. In addition, the note circulated a computer printout listing all children who did not appear to satisfy the criteria for acceptance as family members forming part of the household for

- 41 -

the mission's review, and requested diplomatic notes explaining the circumstances of these cases. (Circular Note of 2/2/87. Attached as Exhibit I.)

Finally, the circular note of September 21, 1987 presented the United States' policy with regard to allegations of crime on the part of members of the missions or members of the families. The note stated that: "[W]hen such cases involve dependents, the Department may require the removal of the principal from whom privileges and immunities are derived and the members of his or her family when the sending government declines to waive immunity or the Department determines that such action otherwise is necessary or appropriate." (Circular Note of 9/21/87. Attached as Exhibit J.)

Practice of Other States with Regard to Definition of Family

In October 1985, the State Department asked all diplomatic posts to provide certain information on the receiving States' practice with regard to family members. In sum, the Department asked about:

- a) the number of dependent children age 21 to 25 at post or residing separately in order to attend full time institutions of higher learning;
- (b) whether the receiving State recognized such children as family forming part of the household; and
- c) about the receiving State's definition of diplomatic family for the purpose of granting immunity.
(The Department issues diplomatic passports and pays for travel of FSO dependents until the age of 23 for college students.)

With regard to question (b), 25 posts responded that the host government accepted students living away from home in order to go to school as family members, two host governments did not, and two responses said the host government's policy was ambiguous.

With respect to question (c), 64 posts (out of 86 responses to this question) said the host country will recognize anyone as a dependent whom the sending State requests, requiring only notification from the embassy, and, in some cases, issuance of a diplomatic passport by the sending State, or evidence of the sending State's practice with regard to its dependents. Sixteen host States applied specific rules based on their own practices. For example, Australia recognizes full time students up to the age of 23; Belgium recognizes no sons over the age of 21, but daughters of any age; France recognizes unmarried dependent daughters of any age, but no sons over 21; and Singapore recognizes children under 22. (Copies of the outgoing cable and a summary of the responses are included as Exhibit K.)

In addition, Denza, in Diplomatic Law at 225, describes in detail the policy of the United Kingdom with regard to the definition of family member. The Government of the United Kingdom defines "family" to include the spouse and minor children, and certain other persons in exceptional circumstances. A minor is defined as a child under 18, in accordance with U.K. law. Generally, exceptional circumstances fall into three categories: (a) a person who fulfills the

social duties of hostess to the diplomatic agent (for example the sister of an unmarried diplomat or the adult daughter of a widowed diplomat); (b) the parent of a diplomat living with him and not engaged in paid employment on a permanent basis; and (c) the child of a diplomat living with him who has attained majority but is not engaged in paid employment on a permanent basis. Students are included in this category provided that they reside with the diplomat at least during vacations.

Other International Agreements that Provide Privileges and Immunities to Family Members

The Vienna Convention on Diplomatic Relations is not the only treaty that provides privileges and immunities for family members of diplomatic, consular and other foreign government personnel in the United States. Set forth below is a summary of the different agreements and what privileges and immunities they grant to family members.

Vienna Consular Convention

This Convention does not provide any immunities to family members but provides them with the following privileges:

- exemption from registration of aliens and residence permits (Article 46)
- exemption from social security provisions (Article 48)
- almost complete exemption from all taxes (Article 49)
- duty free entry for articles for personal use, and exemption from inspection of personal baggage unless there is serious reason to believe the baggage contains illegal articles.

Bilateral Consular Conventions and Other Agreements

In addition, there are a number of bilateral consular conventions and other agreements that grant heightened privileges and immunities to consular officers and employees and their family members. Some of these conventions are with States which neither have consulates in the United States nor have United States' consulates in their State. These conventions, with Bulgaria, Czechoslovakia, the German Democratic Republic, and Romania, are not discussed. The agreements that actually apply in the United States are:

U.S. - Soviet Union Agreements

An agreement of 10/31/86, set forth in an exchange of notes (Attached as Exhibit L), provides for "on the basis of reciprocity, that family members forming part of the households of consular officers and employees who are nationals of the sending State shall enjoy immunity from the criminal jurisdiction of the receiving State"

In addition the 1968 Consular Convention 19 U.S.T. 5018, provides for:

- exemption from military or other compulsory service (Article 24).
- exemption from alien registration and residence permits (Article 25).
- same exemption from customs duties as granted diplomatic personnel in the receiving State (Article 26).

A 1978 Exchange of Notes between the U.S. and Soviet Union, 30 U.S.T. 2341, grants all employees of the sending State Embassy the privileges and immunities of diplomatic agents in the receiving State. Thus, this granted full criminal immunity and almost full civil immunity, in addition to the other privileges and immunities of the Vienna Diplomatic Convention, to the family members of the administrative and technical staff, and the service staff.

U.S. - People's Republic of China Consular Convention

- Article 1(7) defines "members of the family" to mean spouse, minor children and other relatives of a member of a consulate who form a part of his household.
- Article 13(1) provides that family members are immune from the criminal jurisdiction of the receiving State.
- Article 14 provides for waiver by the sending State.
- Article 15 provides for exemption from military or other compulsory service.
- Article 17 provides for exemption from almost all dues and taxes.
- Article 18 provides for exemption from customs duties and exemption from inspection of personal baggage except where there are serious grounds to believe it contains illegal articles.

In addition, in an exchange of notes in November, 1980, the U.S. and the People's Republic of China agreed that all members of the sending State's Embassy would be accorded the privileges and immunities of diplomatic agents in the Vienna Diplomatic Convention.

U.S. - Hungary Consular Convention

- Provides that members of the family of the consular officer, residing with him, shall enjoy immunity except for certain civil actions. (Article 15 (3).)
- Provides that members of the family of a duly notified consular employee having administrative and technical functions, residing with him, shall be immune from criminal jurisdiction. (Article 15(4)(b).)
- Waiver of immunity (Article 18).
- Exemption from military and other compulsory service. (Article 19).
- Exemption from alien registration and residence permits (Article 21).
- Exemption from almost all taxes (Article 25).
- duty free entry for personal goods, and exemption from search of personal baggage except where serious grounds to believe it contains illegal articles (Article 26).
- Exemption from social security obligations (Article 28).

U.S. - Poland Consular Convention

- Members of the family of consular officers who form part of their household enjoy full criminal and almost full civil immunity from jurisdiction. (Article (13)1.)
- Exemption from military or other compulsory service, and from alien registration or residence permits. (Article 15.)
- Exemption from customs duties for personal baggage and effects. (Article 17.)
- Almost complete exemption from taxes (Article 20).

U.S. - Philippines Consular Convention

Under a most-favored-nation clause in the 1947 treaty between the U.S. and the Philippines, the Philippines chose the convention with Poland as representing the most-favored-nation. The exchange of notes effecting this matter are attached at Exhibit M.

United Nations

Under the Agreement between the U.N. and the U.S. Regarding the Headquarters of the United Nations, Section 15:

- (1) every person designated by a Member as the principal resident representative to the U.N. of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary,
- (2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the Government of the Member concerned,
- (3) every person designated by a Member of a specialized agency, as defined in Article 57, paragraph 2, of the Charter, as its principal resident representative, with the rank of ambassador or minister plenipotentiary, at the headquarters of such agency in the United States, and
- (4) Such other principal resident representatives of members to a specialised agency and such resident members of the staffs of representative to a specialised agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States and the Government of the Member concerned, shall, whether residing inside or outside the headquarters district, be entitled in the territory of the United States to the same privileges and immunities, subject to the corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it.

In addition, the Convention on the Privileges and Immunities of the United Nations, provides, in section 19, that:

In addition to the immunities and privileges specified in section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 20 of the U.N. Convention on Privileges and Immunity provides that the U.N. can waive this immunity.

On March 16, 1987, the U.S. Mission to the United Nations sent all the missions a circular note informing them of the U.S. definition of family. A note to the U.N. itself was also sent, with the definition of family limited to spouses, and children under 21, because the language of the Privileges and Immunities Convention provides privileges and immunities for "minor children" only. Exhibit N.

International Boundary and Water Commission

Article 2 of this treaty between the U.S. and Mexico, 59 Stat. 1219, 9 Bevans 1166, provides, in pertinent part:

The Commission shall in all respects have the status of an international body, and shall consist of a United States Section and a Mexican Section. ... The Commission or either of its two Sections may employ such assistants and engineering and legal advisers as it may deem necessary. Each Government shall accord diplomatic status to the Commissioner, designated by the other Government. The Commissioner, two principal engineers, a legal adviser and a secretary, designated

by each Government as members of its Section of the Commission, shall be entitled in the territory of the other country to the privileges and immunities appertaining to diplomatic officers.

The privileges and immunities granted to diplomatic officers include the privileges and immunities for their family members.

Organization of American States

Pursuant to specific authorization from Congress, 22 U.S.C. 288g, the United States and the O.A.S. entered into an agreement providing for privileges and immunities, 26 U.S.T. 1025. This agreement provides, in pertinent part of Article 1, that:

The privileges and immunities which the Government of the United States of America accords to diplomatic envoys accredited to it shall be extended, subject to corresponding conditions and obligations, to any person designated by a member State ... as its Representative or its Interim Representative to the Organization of American States, and to such Alternate Representatives and Advisers of the missions of member States ... as well as to the Permanent Observers and Alternate Observers of non-member States, excluding persons who are serving in a purely administrative-technical, clerical or other similar nonrepresentative capacity

Subsection 10(B) and (C): An Evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States, and the Potential Effect on the Number of Serious Criminal Offenses Committed in the U.S. by Foreign Mission Members and their Families Entitled to Immunity.

An amendment incorporating the definition of "family" being used under U.S. practice, would, of course, not affect the number of persons entitled to privileges and immunities as that definition is already in use. Such an amendment may be useful to codify practice with regard to the Vienna Conventions on Diplomatic and Consular Relations, but would limit the U.S. Government's flexibility to modify the definition in the future.

Several charts have been prepared, using figures from August of 1987, which set out the number of family members that have immunity from some form of jurisdiction of the United States and the source of the immunity. (Exhibit O.) These can be used to determine the effect of amendments which result in removing immunity from an entire class of persons such as Soviet Embassy employees' family members in Washington, or Polish Consular officers' family members. However, as all these listed immunities derive from international obligations of the United States, we would be opposed to eliminating any of these groups altogether.

One alternative may be to reevaluate our practice in light of the practice of other States which limit the definition of

family member to those under the ages of 21 or even 18. However, very few states use 18 as a cut-off age (U.K., Benin, Portugal, and Turkey) and these all have exceptions for students, dependents, unmarried children, or even on the basis of sex. These exceptions essentially mirror the exception used by the United States' definition for children up to the age of 23. In addition, the United States' definition mirrors the age at which the U.S. will no longer consider a child of a U.S. diplomat as a dependent entitled to travel allowances, benefits, and a diplomatic or official passport. Thus, the present U.S. definition has been carefully drafted in light of our own practice of defining dependents, and consistent with the practice which we have found acceptable overseas. A greater narrowing of the class of persons falling within the definition of family may be harmful to the U.S. and its interests overseas, in that it may result in a large number of U.S. dependents living abroad with their parents without the protection of immunity.

The U.K., in its extensive reports reviewing diplomatic privileges and immunities after the incident at the Libyan People's Bureau in London, recommended against amending the Vienna Convention itself, in view of the difficulties of achieving any restrictive amendment. The U.K. also believed it was doubtful if there would be any net gain to the U.K. by terminating the Convention, because the Convention has become customary international law so that any termination, if legally possible, would leave the U.K. in substantially the same position. Government Report on Review of Vienna Convention on Diplomatic Relations, 6, 29 (1985); Brenchley, Diplomatic Immunities and State-Sponsored Terrorism, 24 (1984).

Instead, the recommendations in the U.K. report stated "that a firmer policy towards application of the Vienna Convention is the only effective weapon that the Government possesses and should be strongly pursued. The only realistic alternative ... is to introduce an improved and more detailed code of practice based on a strict application of the measures available under the existing Vienna Convention." Government Report, at 9 & 24.

The Department of State is following a similar strategy in its efforts to reduce the number of persons having immunity from the criminal jurisdiction of the U.S. by providing for stricter guidelines on the definition of family member. The circular note of May 22, 1986, for example, had the effect of removing approximately 400 children from the lists of persons eligible for privileges and immunities because they were over the age of entitlement. In addition, we are trying to deter future criminal offenses by those having immunity by providing for harsher consequences for those who violate U.S. laws, including harsh consequences for the principal of the family member involved.

Enclosures: EXHIBIT G: Circular Diplomatic Note Dated
January 22, 1982

EXHIBIT H: Circular Diplomatic Note Dated
May 22, 1986

EXHIBIT I: Circular Diplomatic Note Dated
February 2, 1987

EXHIBIT J: Circular Diplomatic Note Dated
September 21, 1987

EXHIBIT K: Copy of outgoing cable and a summary
of the responses re: Survey of Practice Regarding
"Family Forming Part of Household"

EXHIBIT L: U.S. - Soviet Union Agreements:
Agreement of 10/31/86 - Exchange of Notes

EXHIBIT M: Philippines: Exchange of notes re:
most-favored-nation clause

EXHIBIT N: USUN Circular Diplomatic Note Dated
March 16, 1987

EXHIBIT O: Statistics - Family Members Entitled
to Immunity: Washington, D.C., New York City and
Outside Washington, D.C. and New York City by
Category and Type of Immunity.

137(b)(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.

Article 27 of the Vienna Convention on Diplomatic Relations governs treatment of the diplomatic pouch and provides that it shall not be opened or detained. We have weighed the competing interests of the United States Government as both a sender and a receiver of the diplomatic pouch and have concluded that, on balance, we have a greater interest as a sender, in preserving the integrity of the pouch.

While there have been instances of abuse of the inviolability of the pouch, it has been our experience that such abuses for the illicit transportation of narcotics, explosives, or weapons are relatively rare compared to the reasonable and proper uses routinely made of the bag. Moreover, the existing general procedures used by foreign and domestic authorities for detection of the entry of such items are sufficient to discourage abuses.

In recent years, there have been proposals, both domestic and international, to change the existing regime regarding the pouch to permit under a variety of circumstances the examination of the pouch by x-ray or other means. As the largest sender of diplomatic pouches, the United States has

traditionally been of the view that the inviolability of the pouch must be maintained and has resisted such changes in the current regime. The diplomatic pouch is utilized to send classified and sensitive documents and articles, including communications and ciphering equipment, which is vital to the operation of our missions abroad and the accomplishment of our foreign policy and national security objectives. Any provision which would allow scanning of the bag risks compromising the confidentiality of sensitive communications equipment and other contents of the bag.

137(b)(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

A. In recent years there have been several instances in the Washington and New York areas of the infliction of serious injury on innocent persons through criminal or tortious acts committed by persons entitled to immunity that have received considerable publicity. The inability of the victim in such incidents to seek redress through the courts or through victim compensation programs available in most States and the inability in most cases to obtain relief from any other source touched a sensitive nerve in, and aroused the righteous indignation of, the many Americans who learn of these incidents, often in sensational terms, through the media.

When such incidents occur, it is the responsibility of the perpetrator and his or her government, in the first instance, to compensate the victim. For its part, the Department of State makes a great effort to secure such compensation. Often, the Department's intervention is successful. In some cases, however, the victim may not receive compensation despite the Department's efforts.

This situation would be improved by establishing a statutory right under prescribed conditions to seek

compensation through some established government instrumentality on the part of anyone who has suffered a grave injury at the hands of a foreign mission member with diplomatic immunity. Such an instrumentality might be one of the crime victim programs which are in existence in four-fifths of the States and are partially funded out of the Treasury through the Victims of Crime Act of 1984; or it could be a mechanism created for the sole purpose of entertaining and adjudicating such claims. For example, H.R. 3036 proposes to add the victims of persons having diplomatic immunity to a list of persons eligible for compensation, pursuant to the Victims of Crime Act of 1984, when they are unable to get compensation from the perpetrator. The beneficiary of diplomatic immunity is fundamentally the United States Government because United States diplomatic personnel abroad could not function without diplomatic immunity. It therefore appears reasonable to spread the costs to victims of such crime among U.S. taxpayers under certain circumstances, rather than to let it fall on the injured individuals. The funding required for such a program would be relatively modest, and in any event should be viewed as a necessary cost of conduct of foreign relations.

It would be well, however, to review at this point other possible sources of relief which might be available and should be exhausted before a victim could turn to the proposed Federal compensation system.

Should the victim's injuries have been sustained in an automobile accident, the automobile driven by the person with immunity should be covered by liability insurance in accordance with the Diplomatic Relations Act of 1978 and the Department's implementing regulations. Such insurance, which has minimum liability requirements much higher than those imposed by the several States, should provide adequate compensation in most cases of this nature.

Another possible avenue of recourse may be open to the victim through the Foreign Sovereign Immunities Act of 1976. Under one of the general exceptions to jurisdictional immunity of a foreign State contained in that Act, section 1605(a)(5), it could be possible in some cases for an injured party to file suit for money damages against a foreign State when it is alleged that personal injury or death, or damage to or loss of property, occurring in the United States has been caused by the tortious act or omission of any member of the foreign mission of that state, provided it can be shown that that individual was at the time acting within the scope of his office or employment.

If no relief is obtainable through the means just described, the Department of State makes its best efforts to prevail upon the foreign government to make a suitable ex gratia payment.

Two other possibilities of providing compensation to one who has suffered grave injury at the hands of a person with diplomatic immunity would require legislative action. One would be the making of an ex gratia payment out of the Treasury after authorization by a private bill. This route toward relief is a difficult and uncertain one, however; moreover, if successful, it discriminates against other victims who are similarly denied redress through the court but have been unable to enlist advocacy in the Congress, or whose legislative efforts have not been successful. The other possibility which would require legislative action would be, again by act of Congress, to proclaim as a matter of national policy the assumption of responsibility by the Federal Government to indemnify the victims in specified classes of cases.

Both possibilities present problems which, in our judgment, should be carefully considered before being used. We believe that a compensation or indemnification fund would be the more reliable approach, but we also believe that a careful study of the problem and of its optimum solution should be conducted prior to the drafting of legislation on the subject. The practice of some other countries, particularly those in the European Community, should be consulted in such a study. We know, for example, that such victims have access to a Criminal Injuries Compensation Board in the United Kingdom, and that in Canada the Federal Department of Justice has entered into

cost-sharing criminal injuries compensation programs with the provinces and the territories, to which victims of persons shielded by immunity have access. The Department of State would be pleased to participate in any such study.

B. Any requirement to establish an insurance fund to protect American citizens from criminal acts by diplomats does not appear to be feasible at this time. To the Department's knowledge, coverage for criminal liability insurance does not exist in the commercial insurance market. A foreign mission may, however, purchase general liability insurance which will protect the embassy against any acts of negligence.

This does not preclude a mission or missions from establishing an insurance fund financed by members of the diplomatic community. The custodian of the fund, however, would be faced with a number of administrative and logistical complexities such as a determination of payment. Further, the lack of this type of coverage in the existing commercial market in all likelihood would result in a negative reaction by the diplomatic community to a mandatory contributive fund, with resultant noncompliance. In addition, in the event that such a criminal insurance fund could be established and administered by the diplomatic community, significant difficulties would certainly arise in the award of compensation outside the judicial system. Finally, there is no legal basis upon which

we could require the diplomatic community to subscribe to such a compensation fund, and enforce any failures to subscribe or otherwise participate.

This question will be further discussed in terms of the overall insurance study being undertaken by the Office of Foreign Missions in the context of catastrophic coverage which could be construed to include the results from incidents involving diplomatic criminal acts.

C

EXHIBIT

- | | | | |
|---|---|-------|---|
| A | Statistics: | (A-1) | Unpaid Debts - Missions in Washington, D.C. |
| | | (A-2) | Unpaid Debts - UN Missions |
| B | Statistics: | (B-1) | Alleged Criminal Cases - Missions in Washington, D.C. |
| | | (B-2) | Alleged Criminal Cases United Nations Missions |
| | | (B-3) | Diplomatic Motor Vehicle Operation Violations, - Missions in Washington, D.C. |
| C | "Guidance for Law Enforcement Officers: Personal Rights and Immunities of Foreign Diplomatic and Consular Personnel" | | |
| D | Law Enforcement and the Diplomatic Community - Schedule of Seminars 1988 | | |
| E | Seminar on Law Enforcement and the Diplomatic Community: March 1, 1988 Agenda | | |
| F | Circular Diplomatic Notes Dated May 1, 1985 and November 5, 1986 | | |
| G | Circular Diplomatic Note Dated January 22, 1982 | | |
| H | Circular Diplomatic Note Dated May 22, 1986 | | |
| I | Circular Diplomatic Note Dated February 2, 1987 | | |
| J | Circular Diplomatic Note Dated September 21, 1987 | | |
| K | Copy of outgoing cable and a summary of the responses re: Survey of Practice Regarding "Family Forming Part of Household" | | |
| L | U.S. - Soviet Union Agreements: Agreement of 10/31/86 - Exchange of Notes | | |
| M | Philippines: Exchange of notes re: most-favored-nation clause | | |
| N | USUN Circular Diplomatic Note Dated March 16, 1987 | | |
| O | Statistics: Family Members Entitled to Immunity - Washington, D.C.; New York City; Outside Washington, D.C. and New York City, by category and type of immunity | | |

EXHIBIT: A-1

SPECIAL CASES - UNPAID DEBTS

Missions in Washington, D.C.

As of February 29, 1988

EXHIBIT: A-1SPECIAL CASES - UNPAID DEBTSMissions in Washington, D.C.As of February 29, 1988

KEY: (A) Diplomat
 (B) Dip/Dependent
 (C) Administrative & Technical Staff
 (D) A&T/Dependent.
 (E) Embassy
 (L/T) Landlord Tenant Dispute

<u>DATE</u>	<u>DEPARTMENT</u> <u>CONTACTED</u>	<u>AMOUNT</u>	<u>COMPLAINANT</u> <u>vs (SEE "Key")</u>
09/29/81		\$448.00	S.Meisel Co. vs (A)
06/30/87		\$6,178.90	Gen Serv Leasing vs Emb'y
12/18/84		\$213.54	Dis't Electric Co. vs (A)
07/20/83		\$1,500.00	Riggs Nat'l Bank vs (A)
04/26/83		\$3,662.28	Alltransport Shipping vs Embassy
04/11/83		\$10,050.89	L/T Dispute: Dr. & Mrs. Tavallali vs Embassy and Emb'y vs Tavallalis.
01/20/88		\$57,215.74	Geo.Wash.Med.Cntr v Emb'y
01/09/87		\$89.00	Geo.Wash.Med.Cntr v (A)
06/26/86		\$5,733.30	Riggs vs (A)
02/28/86		\$1,045.03	Riggs vs (A)
06/16/84		\$168.00	Ms. Menou vs (A)
11/28/86		\$2,060.67	Howard U Hosp vs Embassy
09/19/86		\$18,817.91*	Wash.Hos.Cntr vs Embassy
01/28/86		\$1,406.33	*Will settle for \$12,000
06/30/85		\$30.00	Arlington Hosp vs Embassy
01/23/85		\$1,049.42	Dr. Coleman vs (B)
10/27/87		\$3,000.00	Sovran Bank vs (A)
03/03/87		(\$?)	L/T Dispute: M. Lynch Realty vs Embassy
7/15/87		(\$?)	L/T Dispute: (water damage) Owens vs Embassy
09/28/87		\$172.00	L/T Dispute: Breach of Contract Ms. Gaia vs (C)
07/14/82		\$370.00	Dr. Maglio vs Embassy
10/27/87		\$1,170.86	Meisel vs (A)
08/05/87		\$1,970.63	Hessick Co. vs Embassy
07/07/86		\$1,904.87	Office Boy v Embassy
			L/T Dispute: Shannon & Luchs:Choudhury vs (A)

- 2 -

<u>DATE</u> <u>DEPARTMENT</u> <u>CONTACTED</u>	<u>AMOUNT</u>	<u>COMPLAINANT</u> <u>vs (SEE "Key")</u>
01/29/86	\$2,046.12	Riggs vs (A)
12/21/85	\$1,500.00	Dr. DePaola vs NY ConGen
09/29/85	\$605.00	Prestige Travel vs Emb'y
09/05/84	\$1,323.37	Riggs vs (A)
11/18/87	\$31,800.00	Dominion Leasing Corp vs Embassy
2/2/87	\$4,469.93	L/T Dispute: Horn vs Embassy
05/12/85	\$570.00	Meisel vs (A)
06/05/84	\$3,847.50	Howard U Hosp vs (A)
06/30/83	\$7,116.00	Bankers Trust vs (A)
02/26/88	\$4,441.76	Riggs vs (A)
07/18/86	\$151.50	Meisel vs Employee
06/26/86	\$1,765.19	Riggs vs Employee
02/20/86	\$2,816.99	Riggs vs Employee
07/26/85	\$1,284.29	Riggs vs Employee
03/16/87	\$7,547.20	L/T Dispute: Dr. Mohammad Haq v Embassy
02/12/88	\$8,528.71	Geo.Wash.Univ.vs Emb'y
09/24/87	\$1,544.00	ITT vs (C)
09/22/87	\$2,847.79	Lawyers Coop.Pub.Co vs Employee
08/25/87	\$7,446.96	Colortone vs. Gov't Official
02/05/87	\$5,012.70	Xerox v Embassy
08/13/86	\$150,684.00	Frontier Construction vs Gov't (Congen authorized construction)
05/06/86	\$5,387.55	R.D. Shaheen vs (A)
03/24/86	\$130.00	Da Luz vs (C)
12/29/85	\$2,800.00	Dr.Ollstein vs UN Employee
10/29/85	\$596.04	Hechinger vs (A)
07/27/84	\$455.76	Sears vs Employee
10/25/83	\$3,693.00	Central Traval vs Embassy
09/29/83	\$5,776.00	Drs. Adeson, Deutsch & Nigro; Dr. Alperstein & Klousia vs Embassy
01/25/82	\$15,000.00	Auto Accident
01/18/82	\$2,710.42	Barry Wright Corp v Emb'y
08/17/84	\$221.89	Riggs vs (C)
06/02/83	\$1,121.21	Riggs vs (C)
05/26/83	(\$?)	Riggs vs (A)

EXHIBIT: A-1

EXHIBIT: A-1

- 3 -

<u>DATE</u> <u>DEPARTMENT</u> <u>CONTACTED</u>	<u>AMOUNT</u>	<u>COMPLAINANT</u> <u>vs (SEE "Key")</u>
01/15/88	\$4,209.08	Univ of W. Fla v Embassy.
03/18/85	\$36,440.14	Glennon Hosp vs Embassy re student, St. Louis, MO
08/25/87	\$4,417.16	Kennedy Plumb v Embassy
10/22/85	\$1,721.80	Xerox vs Embassy
08/14/85	\$1,967.45	Copenhaver vs Embassy
07/12/85	\$900.00	G'twn Univ Hosp & Dr. Brick vs (A)
04/17/85	\$903.53	Coleman Cadillac vs Emb'y
11/04/84	\$1,985.56	Chevy Chase Cars vs Emb'y
05/--/84	\$242.00	Meisel vs (A)
06/18/87	\$700.00	Ms. Kouame vs Embassy
06/11/84	\$3,107.93	Smith-Mayflower vs (A)
03/21/86	\$33,377.42	Children's Hosp vs Embassy
03/29/84	\$1,147.70	Wolpoff vs (A)
09/22/83	\$576.00	Central Charge vs Employee
09/27/83	\$1,588.44	Riggs vs (A)
2/11/88	\$275.00	Lau, M.D. vs (C)
03/28/84	\$1,090.77	Riggs vs (A)
09/09/83	\$102.51	Texaco vs(A)
05/26/83	\$1,965.57	Riggs vs (A)
07/13/87	\$7,247.89	OMNI Adjustment Inc v (A)
06/27/87	\$1,348.90	Sacred Heart Hospital, WI vs Embassy (RE: Student)
04/16/87	\$30.00	R. L. Runkle, M.D. vs (D)
11/26/85	\$248.85	GWU Med Cntr vs Employee
07/22/85	\$408.20	Woodies vs Employee
02/04/85	\$3,784.00	Gen Accid Group Ins vs ConGen NY
10/14/84	\$13,710.65	Grt S.E.Comm Hosp v Embassy
1/7/88	\$576.50	Meisel vs Employee
2/26/86	\$429.54	Raleighs vs (A)
12/12/86	\$2,685.00	L/T Dispute: Ross vs (A)
10/30/87	\$1,904.35	C&P v. Embassy
05/21/82	\$273.50	Meisel vs (A)
07/15/87	\$2,968.64	CitiBank v (A) ex-UN
08/03/83	\$977.50	Atlantic Trav/Limo v Emby
09/02/83	5,500.00	Harding vs (A)
02/14/83	\$4,784.90	American Express vs (A)
03/16/83	\$2,742.44	Riggs Nat'l Bank vs (A)
06/22/82	993.00	Diplomatic Servs vs Emb'y

- 4 -

<u>DATE</u> <u>DEPARTMENT</u> <u>CONTACTED</u>	<u>AMOUNT</u>	<u>COMPLAINANT</u> <u>vs (SEE "Key")</u>
12/22/82	\$9,306.46	Riggs Nat'l Bank vs (A)
09/27/78	\$2,181.42	Riggs Nat'l Bank vs (A)
09/20/84	\$1,306.00	Surburban Hosp vs Embassy
03/30/83	\$127.30	Webb Co vs Embassy
01/02/80	\$108,853.15*	Security Storage v Emb'y *Will settle for \$32,500
02/08/88	\$1,351.66	C&P Telephone vs Embassy
11/13/87	\$49,306.00	Brigham/Women's Hosp vs Embassy
01/21/87	\$60.00	DM Bachman, MD vs (C)
01/21/87	\$20.00	BJ Gurwin, MD vs (A)
10/23/86	\$1,930.90	Better Homes Mgt vs (A)
08/29/86	\$1,218.20	JR Singer, DDS vs (A)
01/03/86	\$774.75	Dependo refridge v Emb'y
03/26/85	\$578.62	Loews Summit Hotel v (A)
02/22/85	\$391.00	Dr. Werth v (B)
11/13/84	\$16,637.99	DupCirDialysis v (A)
09/84/84	\$1,405.56	Crescent Electric v Embassy
05/15/84	\$2,011.50	GWU Hosp v Embassy
01/24/84	\$1,345.57	Riggs/Wolpoff v. (C)
02/18/83	\$593.23	Amer Serv Center v. (A)
07/15/82	\$3,559.03	PsychInst/W&A v Embassy
03/31/82	\$941.00	Sabena v Embassy
02/02/82	\$3,342.25	Sibley Hosp v Embassy
08/11/81	\$9,466.00	Arlington Hosp v Embassy
07/17/87	\$1,004.37	L/T Dispute: C.E.Smith Mgt v (A)
1/1/85	\$53,529.00	Georgetown Hosp vs Embassy
08/31/81	\$2,793.28	GWU Hospital vs (B)
07/01/87	\$290.00	Dr. Coleman vs Embassy
04/02/87	\$1,775.91	C&P vs (A)
11/6/87	\$2,000.00	Mr. Harper vs Embassy
1983	\$2,235.00	Paris Caterers vs (A)
1983	\$1,819.00	Riggs vs (A)
10/22/87	\$564.00	Dr. Vatin vs (A)
02/12/87	\$3,828.83	Petrovitch Auto Repair vs Embassy
02/06/87	\$500.00*	Jane's Pub Co vs Embassy (*Emb'y paid \$1,000, to pay off bal. by Mar. 1988.)
10/13/86	\$1,729.05	C&P vs (A)

- 5 -

<u>DATE</u> <u>DEPARTMENT</u> <u>CONTACTED</u>	<u>AMOUNT</u>	<u>COMPLAINANT</u> <u>vs (SEE "Key")</u>
09/05/86	\$5,432.64	Curtis Chev vs Embassy
04/10/86	\$499,972.00*	Arya Corp vs Embassy *Arya refused Embassy request for Dec meeting.
02/25/86	\$54,904.87*	Exports Int'l Appli. vs Embassy *Emb'y pd \$30,000 in both Feb and March.
04/11/83	\$755.00	Vallone vs Embassy
11/22/85	\$112.00	Dixon's Butcher vs Employee

0522S

EXHIBIT: A-2

SPECIAL CASES - UNPAID DEBTS
Missions to the United Nations
As of February 29, 1988

SPECIAL CASES - UNPAID DEBTSMissions to the United NationsAs of February 29, 1988

KEY: Mission
 Employee of Mission
 L/T = Landlord Tenant Dispute

<u>DATE</u> <u>USUN</u> <u>CONTACTED</u>	<u>AMOUNT</u>	<u>COMPLAINANT</u> <u>vs (See "Key")</u>
1987	\$7,020.00	B. Plumbers vs Mission
1987	\$1,189.00	Zerox vs Mission
1987	\$2,200.00	Lenox Hill Hospital, NY vs. Mission
Various	\$10,000.00	Dr. Barbolata vs Mission (Medical services performed on various Employees).
1987	\$9,000.00	L/T: Philip Raffiani, Landlord vs Mission
1985	\$14,975.59	NYU Medical Center vs Diplomat
1986	\$6,608.00	Dr. Steven Abramow vs Employee
1988	?	L/T Dispute.
1987	\$3,791.01	Funding, Inc. vs Mission
1987	\$3,943.61	Irving Trust Co. vs Mission
1987	\$2,300.00	Citibank vs Employee
1987	\$17,261.00	Citibank vs Employee
Current	\$21,000.00	L/T Rent: 30 Dupont, White Plains, Landlord vs Mission
Current	\$10,000.00	Than Travel Agency vs Mission
Current	\$40,000.00	L/T Rent: White Plains Landlord vs Mission
Current	\$10,800.00	Avi Navon Gen't Contractor vs various Mission residences.
Current	\$23,000.00	Sage Realty Co, vs Mission
Thru 1986	\$22,600.00	L/T Rent: Landlord vs Mission (Rent thru 11/86)
Current	\$3,835.00	Hotel Iroquois, NY vs Mission
Current	\$7,600.00	Palace Intern'l Hotel, NY vs Mission
Current	\$10,000.00	Brigham Hopital, Boston vs Diplomat

EXHIBIT: A-2

EXHIBIT: A-2

- 2 -

<u>DATE</u> <u>USUN</u> <u>CONTACTED</u>	<u>AMOUNT</u>	<u>COMPLAINANT</u> <u>vs (See "Key")</u>
Current	\$25,000.00	L/T Rent: NYC Landlord vs Mission
Current	\$300.00	American Locksmiths (work performed at various Mission residences) vs Mission
Current	\$3,693.00	Credit Card Loan vs Mission
1986	\$1,115.00	NY Eye & Eye vs Employee

0522S

EXHIBIT - B-1(a)

STATISTICS

**Alleged Criminal Cases
(By Incident)**

Missions in Washington, D.C.

August 1, 1982 - February 29, 1988

STATISTICS

**Alleged Criminal Cases
(By Type of Incident)**

Missions in Washington, D.C.

August 1, 1982 - February 29, 1988

KEY

(A) = Diplomat
(B) = Diplomat Dependent
(C) = A&T
(D) = A&T Dependent

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>ASSAULT</u>						
	12/14/87		1			Simple assault - charges dropped.
	1/15/88			1		Disorderly conduct, pending
	11/29/82		1			Barred reentry into U.S.
	7/21/85		1			Barred reentry into U.S.
	8/22/86		1			Disorderly conduct with minor assault.
	11/12/85				1	Embassy granted waiver of immunity, but US Attorney's Office declined to pursue.
	11/21/83		1			Barred reentry into U.S.
	2/13/85		1			Employment terminated.
	8/14/86		1			Embassy granted waiver of immunity.
	6/25/86			1		Employment terminated.
	6/--/86		1			Barred reentry into U.S.
	10/29/84	1				Embassy claims persons acting in self-defense.
	10/29/84	1				-ditto above-

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>ASSAULT - continued.</u>						
	10/25/84		1			Minor - physically and emotionally handicapped, was put under professional care.
	1984		1			Barred reentry into U.S.
	4/09/86	1				Person chose not to press charges.
	3/06/85	1				Complainant advised to file charges.
	7/30/86			1		Barred reentry into U.S.
	11/06/87				1	Employment terminated
	3/03/88		1			Assault/family dispute
	11/16/87			1		Immunity waived; employment terminated; arrested
	12/24/84			1		Family dispute.
	10/--/85				1	Employment terminated.
	11/--/85				1	Employment terminated.
<u>BATTERY</u>	3/03/88		1			Battery - pending
<u>BREAKING INTO CARS</u>	2/15/88		1			Pending
<u>BURGLARY</u>	6/--/84		1			Family expelled.
	6/--/84		1			-ditto above; same family-
	3/--/86		1			No longer in U.S.
<u>CHILD ABUSE</u>	1/05/87	1				Family received counseling.
	1/--/84			1		Children placed in foster home; employment terminated.

- 3 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>COPYRIGHT INFRINGEMENT</u>						
<u>AND VIOLATION OF US CUSTOMS</u>						
	2/15/86	1				No longer in U.S.
<u>COUNTERFEITING MONEY</u>						
	4/17/83				1	Barred reentry into U.S.
<u>DISORDERLY CONDUCT</u>						
	4/25/87		1			Pending.
	9/--/84		1			Barred reentry into U.S.
	11/20/86				1	Employment terminated.
<u>DRUG RELATED:</u>						
<u>(a) TRAFFICKING</u>						
	1985		1			Barred reentry into U.S.
	1985		1			Barred reentry into U.S.
	7/6/87				1	Employment terminated.
<u>(b) POSSESSION</u>						
	5/07/85		1			Father's assignment terminated; family departed U.S.
	5/07/85		1			-ditto above; same family -
	10/06/82		1			Possession of marijuana; father promised stricter supervision of son.
	6/--/84		1			Barred reentry into U.S.
	8/24/87	1				Using cocaine while driving. Expelled from U.S.; barred reentry.
	12/18/87				1	Employment terminated
	7/06/87	1				Employment terminated
<u>EMBEZZLEMENT</u>						
	1985				1	Employment terminated
	4/14/87		1			Pending

- 4 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>FORGERY</u>	7/--/83	1				Diplomat deceased.
	7/--/83			1		-same incident as above-
	4/23/87			1		Pending
<u>HARASSMENT</u>	11/02/82	1				Ambassador assured no recurrence.
	9/15/83	1				Employment terminated.
<u>RESISTING ARREST</u>	3/14/87				1	Embassy claimed mistreatment; local authorities claimed resisting arrest. Case pending subject's return to U.S.
<u>ROBBERY/POCKETBOOK SNATCHING</u>	12/23/82		1			Barred reentry into U.S.
<u>SEX:</u>						
(a) <u>ATTEMPTED SEXUAL BATTERY</u>	8/03/86			1		Barred reentry into U.S.
(b) <u>INDECENT EXPOSURE</u>	9/30/86	1				Employment terminated.
	7/30/87			1		Employment terminated.
	1/15/88				1	Pending
	3/17/87				1	Embassy willing to waive immunity.
	10/31/84	1				Employment terminated.
	11/01/84			1		Employment terminated.
	11/06/86			1		Barred reentry into U.S.
	3/29/83			1		Sent home.

- 5 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>SEX - continued.</u>						
(c) <u>INDECENT LIBERTIES</u>	2/09/87				1	Sent home.
	2/22/88		1			Expelled; barred reentry into US
(d) <u>RAPE</u>	12/30/82		1			Barred reentry into US; family departed also.
	11/10/84			1		Expelled from U.S.
(e) <u>INTENT TO COMMIT RAPE</u>	1/06/88			1		Intent to commit rape; sent home; barred reentry into US
(f) <u>SEXUAL ASSAULT</u>	8/27/83			1		Departed U.S.
	2/10/87		1			Juvenile, undergoing psychotherapy.
(g) <u>SOLICITING</u>	12/15/82	1				Subject claims misunderstanding.
	7/19/85			1		Assurances received that there would be no recurrence.
	3/10/83	1				Offender admonished.
	8/15/84				1	Assurances received that there would be no recurrence.
<u>SHOPLIFTING</u>						
Following cases were committed by first offenders and for the most part involved petit larceny (a misdemeanor). Letters of reprimand sent to Embassy, requesting investigation of incident and assurances of no recurrent behavior:						
	7/13/87		1			
	11/17/87		1			Employment terminated.

- 6 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>SHOPLIFTING - continued.</u>						
	9/29/87		1			Employment terminated.
	8/19/87			1		Sent home.
	11/21/87				1	Pending.
	11/29/85			1		
	5/21/87	1				
	7/13/87		1			Mission disputed allegations.
	8/14/86		1			
	8/10/84		1			
	9/10/83			1		
	5/14/85	1				
	4/30/85	1				
	4/30/85			1		
	4/30/85			1		
	2/14/83		1			
	3/24/83		1			
	2/02/87		1			
	12/14/85			1		
	9/08/83				1	
	9/01/87	1				Pending
	1985				1	
	10/21/83		1			
	10/27/84				1	
	11/11/82				1	
	5/16/87		1			
	9/22/87		1			Pending
	3/05/83		1			
	10/10/83			1		
	4/03/87				1	
	9/13/82		1			
	12/21/85			1		
	12/24/87	1				Returned home.
	8/01/87	1				Sent home.
	8/01/87	1				- ditto -
	8/01/87	1				- ditto -

EXHIBIT: B-1(a)EXHIBIT: B-1(a)

- 7 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>SHOPLIFTING - continued</u>						
	10 or 11/86		1			
	3/11/86		1			
	10/14/83		1			
	10/86		1			
	1/10/85		1			
	11/17/84				1	
	4/06/87				1	
	6/26/86		1			
	9/09/87	1				Husband & wife- Charges dropped; allegations disputed. Pending
	2/24/88			1		
	12/13/85		1			
	5/04/84		1			
	4/27/87			1		
	6/30/87				1	
	9/86			1		
	5/12/83		1			
	7/30/87	1				
<u>THEFT</u>						
	6/12/87		1			One of group, allegedly involved with theft of vehicle.
	2/03/86				1	Departed U.S.
	3/21/87		1			Barred reentry into U.S.
	May 1983		1			Barred reentry into U.S.
	Dec 1983		1			Barred reentry into U.S.
	1986			1		Employment terminated.
	Sept 1985		1			Father's assignment in U.S. terminated.
	May 1987		1			Pending
	4/05/86			1		Inconclusive evidence.
<u>VANDALISM</u>						
	July 1985				1	Employment terminated.

EXHIBIT: B-1(a)EXHIBIT: B-1(a)

- 8 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>WEAPONS: Possession</u>						
	7/23/84	1				On entering U.S., subject informed Customs he was in possession of firearm.
	10/03/87			1		Authorities chose not to pursue.
	3/02/84	1				Departed U.S.
	12/23/85			1		Employment terminated.
	1/07/87	1				Firearm confiscated.
	3/14/84	1				Firearm confiscated.
	4/27/84	1				Subject made aware of local gun laws.
	Dec 1986		1			No police report filed.
	3/16/86		1			Claimed ignorance of local gun laws.
<hr/>						
TOTALS:		30	60	35	22	
		(a)	(b)	(c)	(d)	
<hr/>						
<u>GRAND TOTAL:</u>	Period 8/1/82 - 2/29/88					147

KEY

- (A) = Diplomat
 (B) = Diplomat Dependent
 (C) = A&T
 (D) = A&T Dependent

0420I

EXHIBIT - B-1(b)

STATISTICS

**Alleged Criminal Cases
(Totals by Incident)**

Missions in Washington, D.C.

August 1, 1982 - February 29, 1988

STATISTICS

**Alleged Criminal Cases
(Totals by Incident)**

Missions in Washington, D.C.

August 1, 1982 - February 29, 1988

KEY:

(A) = Diplomat
(B) = Diplomat Dependent
(C) = A&T
(D) = A&T Dependent

	<u>(A)</u>	<u>(B)</u>	<u>(C)</u>	<u>(D)</u>	<u>Totals</u>
Assault	4	11	5	4	24
Battery		1	-	-	1
Breaking into cars	-	1	-	-	1
Burglary	-	3	-	-	3
Child Abuse	1	-	1	-	2
Copyright Infringe- ment & Violation of US Customs	1	-	-	-	1
Counterfeiting Money	-	-	-	1	1
Disorderly Conduct	-	2	1	-	3
Drug Related:					
(a) Trafficking	-	2	1	-	3
(b) Possession	2	4	-	1	7
Embezzlement	-	1	1	-	2
Forgery	1	-	2	-	3
Harassment	2	-	-	-	2
Resisting Arrest	-	-	-	1	1
Robbery/Pocketbook Snatching	-	1	-	-	1
Sex:					
(a) Attempted Sexual Battery	-	-	1	-	1
(b) Indecent Exposure	2	-	4	2	8
(c) Indecent Liberties	-	1	-	1	2
(d) Rape	-	1	1	-	2
(e) Attempt to commit Rape			1		1
(f) Sexual Assault	-	1	1	-	2
(g) Soliciting	2	-	1	1	4
Shoplifting	10	23	11	9	53
Theft	-	6	2	1	9
Vandalism	-	-	-	1	1
Weapons	5	2	2	0	9
<hr/>					
TOTALS:	30	60	35	22	147

0420I

EXHIBIT - B-1(c)

STATISTICS

Missions in Washington, D.C.

**Alleged Criminal Cases
(Breakdown by Year)**

August 1, 1982 - February 29, 1988

STATISTICS**Missions in Washington, D.C.****Alleged Criminal Cases
August 1, 1982 - February 29, 1988**

<u>BREAKDOWN BY YEAR</u>	<u>8/1/82- 12/31/82</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1/1/88- 2/29/88</u>	<u>TOTALS</u>
Assault	1	1	5	6	6	3	2	24
Battery	-	-	-	-	-	-	1	1
Breaking into cars	-	-	-	-	-	-	1	1
Burglary	-	-	2	-	1	-	-	3
Child Abuse	-	-	1	-	-	1	-	2
Copyright Infringe- ment & Violation of US Customs	-	-	-	-	1	-	-	1
Counterfeiting Money	-	1	-	-	-	-	-	1
Disorderly Conduct	-	-	1	-	1	1	-	3
Drug Related:								
(a) Trafficking	-	-	-	2	-	1	-	3
(b) Possession	1	-	1	2	-	3	-	7
Embezzlement	-	-	-	1	-	1	-	2
Forgery	-	2	-	-	-	1	-	3
Harassment	1	1	-	-	-	-	-	2
Resisting Arrest	-	-	-	-	-	1	-	1
Robbery/Pocketbook Snatching	1	-	-	-	-	-	-	1
<u>Sex:</u>								
(a) Attempted Sexual Battery	-	-	-	-	1	-	-	1
(b) Indecent Exposure	-	1	2	-	2	2	1	8
(c) Indecent Liberties	-	-	-	-	-	1	1	2
(b) Rape	1	-	1	-	-	-	-	2
(e) Intent to Commit Rape	-	-	-	-	-	-	1	1
(d) Sexual Assault	-	1	-	-	-	1	-	2
(e) Soliciting	1	1	1	1	-	-	-	4
Shoplifting	2	9	4	10	6	21	-	53
Theft	-	2	-	1	3	3	-	9
Vandalism	-	-	-	1	-	-	-	1
Weapons: Possession	-	-	4	1	2	2	-	9
TOTALS:	8	19	22	25	23	42	8	147

EXHIBIT - B-2(a)

STATISTICS

**Alleged Criminal Cases
(By Incident)**

Missions to the United Nations

August 1, 1982 - February 29, 1988

STATISTICSAlleged Criminal Cases
(By Incident)

Missions to the United Nations

August 1, 1982 - February 29, 1988

KEY

(A) = Diplomat

(B) = Diplomat Dependent

*(C) and (D) A&T and A&T Dependents - do not have full criminal immunity.

INCIDENT	DATE	A	B	*C	*D	REMARKS:
<u>ASSAULT</u>	7/13/87	1				Case closed, lack of evidence.
	5/3/87	1				Will be transferred.
	6/27/86	1				Counseling and transfer recommended.
	12/9/86	1				Quarrel between two diplomats; no charges filed.
	3/20/87		1			Departed U.S.
	3/22/87		1			Departed U.S.
	1/01/87	1				Family dispute; firearm confiscated; departed U.S.
	9/05/86	1				Family dispute; firearm confiscated; no charges filed.
	4/04/85	1				Departed U.S.
	4/07/83		1			Student dispute.
	4/08/84		1			Family fight; departed U.S.
	1/27/86	1				Quarrel between two mission members; no charges filed.
	5/20/86	1				Family dispute; matter referred to family court.

- 2 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>DRUG RELATED:</u>						
(a) <u>Trafficking</u>	9/21/83		1			Prosecution declined by District Attorney.
	7/25/86		1			Expelled.
	5/02/84		1			Father counselled by US Mission on son's behavior (sale of marijuana).
<u>OBTAINING A LOAN UNDER FALSE PRETENSES:</u>						
	11/22/82		1			Expelled.
<u>RECKLESS ENDANGERMENT</u>						
	9/10/86		1			Threw stones and bottles at trains.
<u>SEX:</u>						
(a) <u>Attempted Assault</u>	4/14/83		1			Father's assignment terminated.
(b) <u>Soliciting</u>	11/5/85	1				
	11/5/85	1				
<u>SHOPLIFTING</u> - Following cases were committed by first offenders and for the most part involved petit larceny (a misdemeanor):						
	5/14/87		1			
	4/08/87	1				
	7/07/83		1			
	10/12/85		1			
	5/07/86	1				
	3/03/86		1			
	6/25/85	1				
	12/82		1			
	1/30/83	1				
	2/19/85		1			

- 3 -

INCIDENT	DATE	A	B	C	D	REMARKS:
<u>THEFT</u>						
	5/12/86		1			15 year-old son referred to Youth authorities.
	8/9-1983	1				Expelled.
	12/17/83	1				Unknown driver left gas station without paying.
	3/10/85		1			Father's assignment terminated.
	6/19/86		1			Jumped subway turnstile.
	1/20/84	1				Dispute over cab fare.
	7/17/85		1			Broke into auto.
<u>WEAPONS: Possession</u>						
	7/16/83	1				Weapon confiscated; no charges placed.
	4/09/86	1				Weapon confiscated.
	6/04/83	1				Weapon confiscated.
	10/19/84		1			Possession of brass knuckles.
<u>WEAPONS: Illegal Purchase and Export</u>						
	1/29/88		1			Theft & Poss. of Weapons
	2/17/87	1				Expelled.
TOTALS:		22	22			
<u>GRAND TOTAL: 44</u>						
0418I						

EXHIBIT - B-2(b)

STATISTICS

**Alleged Criminal Cases
(Totals by Incident)**

Missions to the United Nations

August 1, 1982 - February 29, 1988

STATISTICSAlleged Criminal Cases
(Totals by Incident)

Missions to the United Nations

August 1, 1982 - February 29, 1988

KEY

(A) = Diplomat

(B) = Diplomat Dependent

*(C) and (D) A&T and A&T Dependents - do not have full criminal immunity.

	<u>(A)</u>	<u>(B)</u>	<u>*(C)</u>	<u>*(D)</u>
Assault	9	4		
Drug Related:				
(a) Trafficking	-	3		
Obtaining a Loan Under				
False Pretenses:	-	1		
Reckless Endangerment	-	1		
Sex:				
(a) Attempted Assault	-	1		
(b) Soliciting	2	-		
Shoplifting	4	6		
Theft	3	4		
Weapons: Possession	3	2		
Weapons: Illegal Purchase				
and Export	1	-		
 TOTALS:	 22	 22		
<u>GRAND TOTAL:</u>	<u>44</u>			

0483S

EXHIBIT - B-2(c)

STATISTICS

Missions to the United Nations

**Alleged Criminal Cases
(Breakdown by Year)**

August 1, 1982 - February 29, 1988

STATISTICS

ALLEGED CRIMINAL CASES

(Missions to the United Nations)

August 1, 1982 - February 29, 1988

<u>BREAKDOWN BY YEAR</u>	<u>8/1/82- 12/31/82</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>TOTALS</u>
Assault	-	1	1	1	5	5	-	13
Drug Related:								
(a) Trafficking	-	1	1	-	1	-	-	3
Obtaining a Loan Under False Pretenses	1	-	-	-	-	-	-	1
Reckless Endangerment	-	-	-	-	1	-	-	1
Sex:								
(a) Attempted Assault	-	1	-	-	-	-	-	1
(b) Soliciting	-	-		2	-	-	-	2
Shoplifting	1	2	-	3	2	2	-	10
Theft	-	2	1	2	2	-	-	7
Weapons: Possession	-	2	1	-	1	-	1	5
Weapons: Illegal Purchase and Export	-	-	-	-	-	1	-	1
TOTALS:	2	9	4	8	12	8	1	44

04835

EXHIBIT - B-3

STATISTICS

DIPLOMATIC MOTOR VEHICLE OPERATION VIOLATIONS

Missions

Washington, D.C.

March 1986 - February 1988

EXHIBIT: B-3STATISTICSDIPLOMATIC MOTOR VEHICLE OPERATION VIOLATIONS**Missions****Washington, D.C.****March 1986 - February 1988**

<u>Date</u>	<u>Violation</u>	<u>Department of State Action</u>
Mar. 1986	DWI Speeding Improper registration	Driver's license revoked.
July 1986	DWI Erratic driving	Driver's license revoked.
Nov. 1986	DWI Accident	Driver's license revoked.
Feb. 1987	DWI Accident Determined PNG.	Driver's license revoked. Recalled; left 2/24/87.
Feb. 1987	DWI Speeding Erratic driving	Driver's license revoked.
Mar. 1987	Reckless driving	Driver's license revoked.
Mar. 1987	Erratic driving Alcohol breath	Revocation of license held in abeyance due to political consider- ations; meeting held with Embassy official.
Mar. 1987	Erratic driving	Driver's license revoked.
July 1987	Citizen com- plaint re speeding.	Diplomatic Note to Embassy.

Key: DWI - Driving While Intoxicated

- 2 -

<u>Date</u>	<u>Violation</u>	<u>Department of State Action</u>
Aug. 1987	DWI	Driver's license revoked. Fine assessed.
Aug. 1987	Stolen DP auto Stolen MD plat Accident Eluding police	Embassy refused to waive immunity. All charges dropped.
Aug. 1987	Accident Eluding police	Meeting held with Ambassador determined: must pay fines; may not drive; and waive immunity.
Aug. 1987	DWI Accident	Driver's license revoked. Diplomatic Note sent to Embassy.
Aug. 1987	Drug use while operating a vehicle	Declared PNG; left USA
Sept. 1987	DWI	Driver's license revoked
Sept. 1987	Accident Ran red light Uninsured Improper registration	Driver's license revoked - all damages paid by Embassy
Sept. 1987	DWI Hit & run	Driver's license revoked. Meeting with Ambassador. Sent home by Embassy.
Oct. 1987	DWI Unregistered vehicle Using plates from other vehicle	Driver's license revoked. Waived immunity.
Oct. 1987	DWI	Waived immunity. Driver's license revoked. Paid \$100 fine; suspended sentence. Attended driver rehabilitation course.

Key: DWI - Driving While Intoxicated

- 3 -

<u>Date</u>	<u>Violation</u>	<u>Department of State Action</u>
Nov. 1987	Accident Uninsured vehicle	Diplomatic Note
Dec. 1987	DWI	Driver's license revoked.
Jan. 1988	Speeding	Paid fine.
Jan. 1988	DWI	Driver's license revoked.
Jan. 1988	DWI	Pending determination.

Key: DWI - Driving While Intoxicated

0419I

United States Department of State

EXHIBIT C

Guidance for Law Enforcement Officers

Personal Rights and Immunities of
Foreign Diplomatic and Consular Personnel



EXHIBIT D

UNITED STATES DEPARTMENT OF STATE
DIPLOMATIC SECURITY SERVICE
PROTECTIVE LIAISON DIVISION

LAW ENFORCEMENT AND THE DIPLOMATIC COMMUNITYSchedule of 1988 Seminars

March 1, 1988	Philadelphia, Pennsylvania
April 19, 1988	Chicago, Illinois
May 31, 1988	Miami, Florida
July 12, 1988	Boston, Massachusetts
August 30, 1988	Houston/Dallas, Texas

EXHIBIT - MFAMILY MEMBERS ENTITLED TO IMMUNITY - WASHINGTON, D.C.

<u>Category</u>	<u>Type of Immunity</u>	<u>Number</u>
<u>Embassy</u>		
Diplomatic Family Members	Full Criminal and Civil	6,878
Administrative & Technical Staff Family Members	Full Criminal/No Civil	5,609
Soviet Employees Family Members	Full Criminal and Civil	219
China Employees Family Members	Full Criminal and Civil	5
<u>O.A.S.</u>		
Diplomatic Family Members	Full Criminal and Civil	494

EXHIBIT E

UNITED STATES DEPARTMENT OF STATE
DIPLOMATIC SECURITY SERVICE
PROTECTIVE LIAISON DIVISION

Seminar on Law Enforcement and the Diplomatic Community

Agenda: March 1, 1988

0800 hrs Arrival of guests and participants
 Registration

0900 Welcoming Remarks
 Horace Mitchell
 Special Agent in Charge
 Philadelphia Field Office
 Diplomatic Security Service

 Introduction to the Bureau of Diplomatic Security
 Richard Heckman
 Deputy Chief for Operations
 Diplomatic Security Service

0930 Licensing of Diplomatic Vehicles and Drivers
 E. Richard Atkinson
 Senior Operations Officer
 Office of Foreign Missions

1200 Lunch

1300 Diplomatic Immunity
 Lawrence Dunham
 Chief, Accreditation Branch
 Office of Protocol

1530 Afternoon Break

1545 Travel of Armed Foreign Security Officers in U.S.
 Chuck Hunter
 Deputy Chief for Reimbursement
 Diplomatic Security Service

1600 Critique

1615 Closing Remarks
 Issuance of Attendance Certificates

EXHIBIT F (PART 1): Circular Diplomatic Note
Dated May 1, 1985.

(Accreditation of foreign diplomatic personnel.)

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to refer to the accreditation of foreign diplomatic personnel assigned to the United States, and to the registration of nondiplomatic staff members employed by diplomatic missions. The Department of State has observed that it is necessary and useful periodically to reiterate and clarify the standards for accreditation and herein restates and expands the criteria set forth in its notes dated December 12, 1974, and June 17, 1977.

The Secretary of State wishes to remind the Chiefs of Mission that the accreditation of diplomats and the registration of staff members employed by diplomatic missions is solely within the discretion of the Department of State, subject to the criteria set forth below. Requests for exceptions to the general guidelines will be considered infrequently and only in extenuating circumstances. Such requests must be forwarded in the form of a diplomatic note to the Department and must set forth in detail the exact nature of the exception requested, justification for such exception, the duration thereof, and possible alternative courses of action.

So that the accreditation policy of the United States Government may be uniformly a matter of record for all missions, the criteria governing accreditation are set forth as follows:

AGENTS"

"DIPLOMATIC AGENTS"

To be recognized as a "diplomatic agent", and in order to retain such status, a person must: (1) possess a valid diplomatic passport if diplomatic passports are issued by his government or, if diplomatic passports are not issued, present a diplomatic note from the mission formally representing the intention of the sending government to assign to him diplomatic duties; (2) possess a recognized diplomatic title; (3) be a holder of an A-1 nonimmigrant visa; (4) be over 21 years of age; (5) with the exception of certain designated senior financial, economic, and commercial positions in New York City or certain other positions expressly agreed to by the Department, reside in the Washington, D.C. area (the District of Columbia, Montgomery, Prince Georges, Charles, Frederick, and Calvert Counties in Maryland; Arlington, Fairfax, Loudoun, Prince William and Stafford Counties, and the cities of Alexandria and Falls Church in Virginia); and (6) devote official activities to diplomatic functions on an essentially full-time basis.

**MEMBERS OF THE ADMINISTRATIVE AND TECHNICAL AND SERVICE
STAFFS OF THE MISSION; SERVANTS**

To be recognized as such and to retain such status, a person must: (1) possess an A-2 or A-3 visa; (2) perform duties with the diplomatic mission full-time; and (3) reside in the Washington, D.C. area.

* * * * *

to reside in the Washington, D.C. area, is residence in the New York City area, which is permissible only upon the express agreement of the Department that such persons may be assigned to perform specific functions in New York City. However, no such exception exists for "members of the administrative and technical staff". Accordingly, persons employed by the sending State in support of "diplomatic agents" residing outside the Washington, D.C., area have no claim to the privileges and immunities provided in the Vienna Convention on Diplomatic Relations. They have only such privileges and immunities as expressly agreed upon by the United States and the sending State of the "diplomatic agent".

The Department reiterates the emphasis placed on the performance of traditional and accepted diplomatic functions by recognized foreign diplomatic personnel assigned to the United States. Accordingly, the Department will not consider for accreditation any person who, during assignment in the United States, is, or will be, a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted diplomatic functions.

In the past some governments have selected officials for assignment to the United States who, following arrival and subsequent recognition as diplomats by the Department of State, have entered upon intergovernmental military training courses or have been assigned for training at private research institutions. This practice also is unacceptable. Each mission is required to notify the Department promptly whenever any of its personnel terminate diplomatic duties to engage in nondiplomatic pursuits and should return immediately all diplomatic credentials issued to such persons.

Occasionally the Department learns of persons who, although

accredited as diplomatic agents, are performing duties principally, if not solely, under contract at or by appointment with international organizations headquartered in Washington. Although the Vienna Convention on Diplomatic Relations (Article 5, paragraph 3) states that members of the diplomatic staffs of missions also may act as representatives to international organizations, the Convention provides no basis for them to serve on the staffs of international organizations. The Department of State views such service as incompatible with the functions of a diplomat, whose principal concern must be to assist in the conduct of bilateral relations between the sending State and the United States. Accordingly, the Department will require the return of all diplomatic credentials issued to any such individual and will delete his name from the Diplomatic List. A person who is duly accredited to the staff of an international organization will have only such privileges and immunities as are provided by U.S. law or by international agreement to the staff of the international organization concerned.

Finally, the Department reminds missions that privileges and immunities are not extended in the United States to persons assigned to temporary duty at a mission for a brief period of time. Missions are advised that it is recommended that such temporary visitors be notified to the Department of State nonetheless because, as "official guests", they are entitled to certain protections under U.S. domestic law.

Department of State,

Washington,

May 1, 1985

EXHIBIT F (PART 2): Circular Diplomatic Note
Dated November 5, 1986.

(Recognition of consular officers and opening and maintaining consular posts.)

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and refers to the circular diplomatic notes which the Department of State issued on July 13, 1971, and February 27, 1985, regarding recognition of consular officers and opening and maintaining consular posts.

In the interest of simplifying and expediting the procedure for consular recognition, beginning with requests dated December 1, 1986, the United States Government no longer will require the exchange of diplomatic notes. Thereafter, submissions by the embassies of Forms DS-394 will be considered formal notification of the appointment of career consular officers. The procedures described below should be followed in requesting recognition of consular officers.

CAREER CONSULAR OFFICERS

Two copies of Form DS-394, Notification of Foreign Government-Related Employment Status, duly completed, signed and stamped with the Embassy's seal, should be submitted to the Office of Protocol for each request for recognition. In response, the Department will issue a letter advising whether a candidate has been recognized. The date of the acceptance letter will be the effective date of official recognition.

- 2 -

Incomplete Forms DS-394 will be returned to the Missions for correction.

The Department also wishes to take this opportunity to set forth the general policy of the United States Government regarding consular recognition so that it may be uniformly a matter of record.

In order to be eligible for recognition as a career consular officer, an individual must:

- (1) possess a consular title recognized by the United States Government, i.e., Consul General, Deputy Consul General, Consul, Deputy Consul, Vice Consul, or Consular Agent;
- (2) be the holder of an A-1 non-immigrant visa;
- (3) devote his or her official activities to consular duties on an essentially full-time basis;
- (4) not engage in any professional or commercial activity in the receiving State for personal profit;
- (5) reside in the area where recognition is requested;
- (6) be over 21 years of age;
- (7) be a national of the sending State; and
- (8) perform consular duties at a location approved by the Department of State.

- 3 -

HONORARY CONSULAR OFFICERS

In connection with requests for recognition for honorary consular officers, a letter describing the duties which the proposed honorary consular officer would perform and whether these duties would be performed on a full-time or part-time basis should be submitted to the Department in place of a diplomatic note. If it is the desire of the sending government to appoint an honorary consular officer to a career consular post, the letter should set forth the guidelines or standards followed by the Government in making this determination.

Two copies of Form DS-394, Notification of Foreign Government-Related Employment Status, duly completed, signed and stamped with the Embassy's seal, should be submitted to the Office of Protocol with the accompanying letter. In response, the Department will issue a letter advising whether a candidate has been recognized. The date of the acceptance letter will be the effective date of official recognition.

In order to be eligible for recognition as an honorary consular officer, an individual must:

- (1) possess a consular title recognized by the United States Government;
- (2) be a citizen or legal permanent resident of the United States;

- 4 -

- (3) not hold an office of profit or trust with the United States Government or a position with a state, county or other municipality of the United States which is considered by such municipality to be incompatible with the duties of a foreign consular officer;
- (4) if he or she holds a commission as a Reserve Officer in any branch of the United States Armed Forces, obtain permission from the Secretary of the Department concerned;
- (5) reside in the area where recognition is requested; and
- (6) be over 21 years of age.

* * * * *

The Department also should be notified by letter of:

- (1) the proposed establishment of a consular post, its justification, classification, and consular jurisdiction;
- (2) proposed subsequent changes in the seat of a consular post, its classification or its consular jurisdiction; and
- (3) promotions of consular officers in the United States.

- 5 -

Consular officers cannot be recognized until the sending State has formally established a consular office in accordance with the procedure set forth in the referenced note of February 27, 1985. Consular activities may not be performed before recognition has been granted by the Office of Protocol, Department of State.

The Department should be notified without delay on Form DS-394A, prepared in duplicate, of all terminations of assignments of consular personnel. Consular identification cards issued by the Department of State should be returned with Forms DS-394A to the Office of Protocol. Sales tax exemption cards, automobile license plates and vehicle registrations should be returned to the Office of Foreign Missions.

Department of State,

Washington, November 5, 1986.

SR

EXHIBIT G: Circular Diplomatic Note
Dated January 22, 1982

(Amendment effective 5/28/81 to Part 41 of the Code of Federal Regulations regarding documentation of non-immigrants under the Immigration and Nationality Act.)

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to bring to their attention the amendment effective May 28, 1981 to Part 41 of the Code of Federal Regulations regarding the documentation of non-immigrants under the Immigration and Nationality Act.

This amendment relates to the definition of "Immediate Family", as used in sections 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8) of the Act and to classification under the symbols NATO-1, NATO-2, NATO-3, NATO-4 and NATO-5. The revised definition of "Immediate Family" includes the spouse and unmarried sons and daughters, whether by blood or adoption of the principal alien who are not members of some other household, and who will reside regularly in the household of the principal alien. "Immediate Family" also includes, upon individual authorization by the Department of State, other close relatives who are members of the immediate family by blood, marriage, or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien. The persons in this latter category must also be recognized as dependents by the sending Government as demonstrated by their eligibility for all rights and benefits, such as the issuance of a diplomatic

- 2 -

or official passport and travel and other allowances,
which would be granted to the spouse and children of
the principal alien.

Department of State,

Washington, January 22, 1982

EXHIBIT H: Circular Diplomatic Note
Dated May 22, 1986

(Definition of term "family member.")

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to advise them of the definition which will be applied to the term "family."

It long has been an accepted principle of international law that the privileges and immunities to which members of the mission are entitled extend, to a certain degree, to the members of their families forming part of their households. This is considered essential in order to protect the privileges and immunities which are provided directly for members of the missions and to ensure the efficient performance of diplomatic missions as representing States. The Vienna Convention on Diplomatic Relations (Article 37) specifies the privileges and immunities which shall be accorded members of families but does not provide a definition of the term "family" for the purposes of the Convention. The drafters of the Convention recognized that the concept of "family" differs among the societies of the world and left the matter to be resolved according to the standards of the respective receiving States and on the basis of reciprocity. For the assistance of the missions, there are provided the following definitions and clarifications applicable in the United States.

For the purposes of the application in the United States of the Vienna Convention on Diplomatic Relations, "family... forming part of...household" means the spouse of the member of the mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who

-2-

reside exclusively in the principal's household. Additionally, the term "family" includes children under 23 years of age who are attending an institution of higher learning on a full-time basis. Other persons who are not members of some other household, who reside exclusively in the principal's household, and who are recognized by the sending State as members of the family forming part of the household, under exceptional circumstances and with the express approval of the Department of State, also may be considered "family" for the purposes of the Vienna Convention. In such exceptional cases, the sending State must formally request consideration by the Department of State and include full justification for the requested exception.

Taking into account that members of the family may not be accompanying the principal during the assignment to Washington but may nonetheless join the household for visits or during holiday periods, such persons as otherwise fall within the definition specified above also are considered to be family members for the purposes of the Vienna Convention. It is requested, however, that the Department receive timely notification of the arrival of such persons so that their privileges and immunities may be assured. The routine Department requirement that notification be received within 30 days of arrival of such persons ordinarily will not be adequate in the case of such short-term visitors.

The attention of the Chiefs of Mission also is drawn to the applicable provisions of international law in respect of termination of status and, in that connection, to the circular note of March 1, 1984. Whenever any person who has been accorded "family" status in the United States ceases to reside

-3-

with the principal, reaches an age beyond which family status is precluded, or otherwise ceases to be part of the household of the principal, such person immediately ceases to be a "member of the family" within the meaning of international law and the Vienna Convention on Diplomatic Relations.

Accordingly, all privileges and immunities to which such person previously had been entitled in the United States would terminate thirty days thereafter unless in a particular case a shorter time had been specified by the Department of State.

It is emphasized that the standard set forth in this note is solely to define members of the family for the purposes of the Vienna Convention on Diplomatic Relations and is without prejudice to other definitions of family for other purposes which have an independent basis in international agreements or U.S. domestic law.

Department of State,

Washington, May 22, 1986.

EXHIBIT I: Circular Diplomatic Note

Dated February 2, 1987

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and refers to the note dated May 22, 1986, a copy of which is enclosed, concerning the definition of family members.

The Department refers, in particular, to the U.S. Government policy that for the purposes of the application in the United States of the Vienna Convention on Diplomatic Relations, the phrase "family of a diplomatic agent forming part of his household" means the spouse of the member of the mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who reside exclusively in the principal's household. Additionally, the term "family" includes unmarried children under 23 years of age who are attending an institution of higher learning on a full-time basis.

Once a child reaches an age above which family status is precluded, the child ceases to be a "member of the family" within the meaning of the Vienna Convention on Diplomatic Relations. Accordingly, all privileges and immunities to which such person previously had been entitled in the United States would expire thirty days thereafter.

The records of children over the age of 21, who previously have been accepted for privileges and immunities, will be adjusted by the Office of Protocol thirty days after their twenty-first birthday. The missions may formally request continuation of "family" status for children up to the age of 23 who are attending an institution of

higher learning on a full-time basis by submitting a diplomatic note to the Office of Protocol. Such requests should be received no later than thirty days prior to the child's twenty-first birthday.

A computer printout listing children who do not appear to satisfy the criteria for acceptance as family members forming part of the household is enclosed for review. Diplomatic notes detailing attendance at college for children between the ages of 21 and 23 or exceptional circumstances as described in the circular note of May 22, 1986, should be sent to the Office of Protocol. Notes must be forwarded no later than thirty days following the receipt of this note. Additional listings will be transmitted to the missions periodically.

Enclosures:

1. Circular Note Dated May 22, 1986.
2. Computer Printout Dated December 17, 1986.

Department of State,
Washington, February 2, 1987

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, likely representing the initials 'SR'.

Dated September 21, 1987

The Chief of Protocol presents her compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and takes this occasion to call to their attention the serious concern of the United States Government in regard to allegations of criminal activity on the part of certain members of the missions or members of their families. As evidenced by recent legislation introduced in both the United States Senate and the House of Representatives, the Congress also shares this concern.

The Department of State wishes to reiterate to the missions that criminal violations will not be tolerated by the United States Government or the community at large. In this regard, the Department of State refers to its circular note of March 21, 1984. While the Department will continue to take necessary action as required by international law to preserve the immunity of persons involved in allegedly criminal behavior, the Department wishes to summarize here the corrective measures consistent with international law that are taken in cases involving serious criminal conduct, in particular crimes of violence, recurrent offenses of a less serious nature, or other egregious abuses of immunity.

As a matter of policy, the Department requests a waiver of immunity by the sending state so that all allegations may be adjudicated fully. In the absence of a waiver of immunity the United States Government normally requires that the alleged offender depart the country. In certain cases, however, the Department retains discretion to require the departure of the alleged offender even though a waiver of immunity may have been granted.

The missions are advised further that when such cases involve dependents, the Department may require the removal of the principal from whom privileges and immunities are derived and the members of his or her family when the sending government declines to waive immunity or the Department determines that such action otherwise is necessary or appropriate.

In all cases involving injury to persons or damage to property, the Department pursues vigorously the interests of the aggrieved parties in obtaining prompt restitution by individual offenders or by their governments.

Moreover, in order to ensure a complete record in each case, or to lay the basis for possible prosecution in appropriate cases, the Department has notified law enforcement officials throughout the United States to prepare cases carefully and completely and properly document each incident at the time of an alleged crime so that charges against offenders may be pursued as far as possible in the U.S. judicial system.

The Department wishes to remind the missions that in any case involving criminal activity no ban exists on the arrest and prosecution of a person formerly entitled to privileges and immunities who returns to the United States, unless it can be proved that the crime related to the exercise of official functions. The Department recognizes that the threat of prosecution may serve, as a practical matter, to prevent individuals who commit crimes while in privileged status from returning to the United States. To ensure that such individuals do not return without appropriate review by United States authorities, henceforth the Department will require that

the sending government forward the passport of the alleged offender (and of family members in appropriate cases) to the Department before he or she departs the United States so that the visa may be revoked and the form I-94 returned to the Immigration and Naturalization Service. Should the alleged offender leave the United States before the visa is cancelled, the Department may not accept a replacement on the mission staff of the offender (or of his or her principal in the case of a crime committed by a dependent), until the visa is revoked.

Department of State,

Washington, September 21, 1987.

52

EXHIBIT - K

United States Department of State

PIC - Diplomatic FAMILY
 Washington, D.C. 20520
MEMORANDUM

January 15, 1986

TO: Accreditation Review Panel

FROM: L/SFP - M. Bruce Hirshorn

SUBJECT: Results of the Survey of Practice Regarding
 "Family Forming Part of Household"

In October we queried all diplomatic posts on a) whether there were dependent children of members of the mission, age 21 through 25, who are attending an institution of higher learning and residing separately from the sponsoring parent, b) if so, are they recognized by the host government as "family forming part of (the) household" of a member of the mission under Article 37 of the Vienna Convention on Diplomatic Relations, and c) the host state's policy on definition of diplomatic family for the purpose of granting immunity.

We received 86 usable replies out of approximately 140 countries in which we have missions. 29 embassies reported individuals in the category of question a); and 57 had none. Because of the wording of the question, some embassies did not give the number of students, while others did. In those that did, the students totaled 62. Of the embassies with students living away from home, 25 said the host government accepted them as family members, and 2 said it did not. Two embassies said the host government's policy was ambiguous. The responses did not distinguish between students attending school in the US, clearly a substantial number, and those attending school in the country of assignment or in a third country, a relatively rare situation.*

With respect to the third question, of the 86 embassies, the largest number (64) said the host country will recognize anyone as a dependent whom the sending state requests, requiring only notification from the embassy, and, in some cases, issuance of a diplomatic passport by the sending state, or evidence of the sending state's practice with respect to its dependents. A minority (16) applied specific rules based on their own practices, e.g., Australia recognizes full time students up to the age of 23; Belgium recognizes no sons over 21, but daughters at any age; France accepts unmarried daughters at any age; while Singapore recognizes only children under 22.

Note* The Department continues to issue diplomatic passports and pay for travel for US Foreign Service dependents who are college students in the US until their 23rd birthday. Standardized Regulations (Government Civilians Foreign Areas) sec. 284.

cc:M/FLO
 M/DGP

Office of Research
 Regarding
 Privileges, Foreign Part of Households
 11-13-66

EXHIBIT: K

PAGE 1

Country	Post	Students?	Privileges? Policy.
Argentina	Buenos Aires	N	Not answered
Australia	Canberra	Y	M
Austria	Vienna	N	Up to 23 if a full time student
Bahrain	Manama	N	Anyone notified
Barbados	Bridgetown	8	Anyone with a dip passport
Belgium	Brussels	12	Anyone, regardless of age, who is wholly dependent
Belize	Belize	1	No sons 21 or over. Daughters at any age.
Benin	Cotonou	1	Parents must provide sole support
Botswana	Gaborone	N	Under 18, with exceptions
Brazil	Brasilia	N	No one over 21
Brunei	Bandar Sri Bagawan	N	Reciprocity
Bulgaria	Sofia	N	No policy. Usually follows Malaysia
Burkina Faso	Ouagadougou	N	Full time students under 25
Burma	Rangoon	N	Anyone with a dip passport
Burundi	Bujumbura	N	Anyone with a dip passport
Cameroon	Yaounde	N	Anyone notified
Canada	Ottawa	N	Only until age 21
Central African Rep	Bangui	N	N
Chad	Ndjamena	N	No one over 21 except unmarried students living at home
Chile	Santiago	6	All members living with the diplomat. None living apart.
Columbia	Bogota	N	Anyone notified with dip passport
Costa Rica	San Jose	N	Anyone notified
Cuba	Havana	Y	Under 21
Cyprus	Nicosia	N	Anyone notified
Denmark	Copenhagen	N	No age limit
Djibouti	Djibouti	2	Anyone notified, provided fully supported by parent
Dominican Republic	Santo Domingo	10	All children through the age of 25
Ecuador	Quito	8	No general policy
Egypt	Cairo	N	Anyone notified
El Salvador	San Salvador	N	All dependent children
Ethiopia	Addis Ababa	N	Anyone financially dependent
Fed Rep of Germany	Bonn	4	Anyone notified
Finland	Helsinki	N	Anyone declared is accepted as long as some kinship
France	Paris	N	If financially dependent
Gabon	Libreville	N	Up to 21, with exceptions
Ghana	Accra	N	Unmarried dependent daughters. Sons under 21
Greece	Athens	Y	All dependent children
Grenada	Grenada	N	Anyone with a diplomatic passport
Guinea-Bissau	Bissau	N	All dependent children, regardless of age, if dip passport
Haiti	Port au Prince	N	Recognizes all children
Iceland	Reykavik	Y	No answer
India	New Delhi	N	Anyone notified
Indonesia	Jakarta	?	Anyone notified who has a dip passport
Ireland	Dublin	N	Anyone notified
Israel	Tel Aviv	N	No age limit
Italy	Rome	N	Anyone
Ivory Coast	Abidjan	7	All dependent children
Jamaica	Kingston	N	All students under 26
Japan	Tokyo	N	Only until 21
Kenya	Nairobi	N	Unmarried children
Korea	Seoul	4	Anyone with dip or official passport
Kuwait	Kuwait	1	Anyone notified
			Anyone notified
			Grants status, but post only requests for under 21

Director of Personnel
 Regarding
 Family Members of Personnel
 13-80

EXHIBIT: K

Country	Post	Students?	Privileges? Policy.
Lebanon	Vinettiane	N	Anyone notified. No U.S. dependents assigned
Liberia	Monrovia	N	Anyone notified
Luxembourg	Luxembourg	N	No one 21 or over
Madagascar	Antananarivo	N	Anyone notified
Malaysia	Kuala Lumpur	N	Financially dependent children
Mali	Bamako	N	Not answered
Malta	Valletta	N	Anyone financially dependent on the parent
Mauritania	Nouakchott	N	No policy
Mexico	Mexico	Y	Anyone notified
Morocco	Rabat	N	No one over 21
Nepal	Kathmandu	N	Anyone notified
Netherlands	Hague	N	Anyone fully dependent, not employed, and single
New Zealand	Wellington	N	Anyone whose way is paid by U.S. & has dip passport
Niger	Niamey	Y	Anyone with a dip or official passport
Nigeria	Lagos	N	All children
Norway	Oslo	N	Anyone with a dip passport
Pakistan	Islamabad	N	All dependent children
Panama	Panama	Y	Anyone notified
Papua New Guinea	Port Moresby	1	Anyone notified who has a dip passport
Philippines	Manila	N	Anyone notified
Poland	Warsaw	N	Unmarried & financially dependent if dip passport
Portugal	Lisbon	Y	All females. Males over 18 only if a student.
Romania	Bucharest	N	Anyone notified
Rwanda	Kigali	N	No one 21 or over
Saudi Arabia	Riyadh	N	Anyone notified
Senegal	Dakar	3	All family members with a dip passport
Singapore	Singapore	N	Children under 22
Somalia	Mogadishu	N	Anyone notified
Sri Lanka	Colombo	3	If dip passport endorsed that holder is a dependent
Sudan	Khartoum	N	Up to 21 (?)
Suriname	Paramaribo	N	No answer
Sweden	Stockholm	N	Students up to age 25
Switzerland	Bern	N	Up to age 25
Tanzania	Dar Es Salaam	N	No answer
Thailand	Bangkok	19	Children up to age 25
The Gambia	Banjul	N	Anyone notified
Togo	Lome	Y	Anyone notified
Turkey	Ankara	N	Sons 18 and under, daughters at any age
Venezuela	Caracas	Y	If included in travel orders
Yugoslavia	Belgrade	3	If considered a dependent
Zaire	Kinshasa	N	No restrictions

UNCLASSIFIED
Department of StateOUTGOING
TELEGRAMPAGE 01 STATE 312552
ORIGIN MOFM-04

4085

INFO	LOG-00	ADS-00	EUR-00	AF-00	MMO-01	IO-16	NEA-07
	ARA-00	L-03	AMAD-01	EAP-00	AIT-02	SIG-03	FSI-04
	AS-02	/043 R					

DRAFTED BY: M/OFM: JSHULINGS: VM
 APPROVED BY: M/OFM: JENOLAN
 L/M: WMMCQUADE
 ARA/EX: ESCASSA
 EUR/EX: KNPETIER

AF/EX: JBMORAN
 EAP/EX: POLMON
 NEA/EX: JMELOSE

P 100818Z OCT 85 ZEX
 FM SECSTATE WASHDC
 TO ALL DIPLOMATIC AND CONSULAR POSTS PRIORITY

UNCLAS STATE 312552

E. O. 12356: N/A
 TAGS: AMGT, ODIP, XX
 SUBJECT: SURVEY OF PRACTICE REGARDING "FAMILY FORMING
 PART OF HOUSEHOLD"

1. AS PART OF GENERAL REVIEW OF ACCREDITATION POLICY AND PRACTICE, THE DEPARTMENT IS NOW CONSIDERING THE DEFINITION PROPERLY TO BE ASSIGNED TO "FAMILY FORMING PART OF HOUSEHOLD" AS THAT EXPRESSION IS USED IN THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS TO THOSE PERSONS ENTITLED TO DERIVATIVE DIPLOMATIC PRIVILEGES AND IMMUNITIES. IN THIS CONNECTION, DEPARTMENT REQUESTS PROMPT RESPONSE TO THE FOLLOWING QUESTIONS:

A. ARE THERE DEPENDENT CHILDREN OF MEMBERS OF THE MISSION AT YOUR POST, AGE 21 THROUGH 25, WHO ARE ATTENDING AN INSTITUTION OF HIGHER LEARNING AND RPT AND RESIDING SEPARATELY FROM THE SPONSORING PARENT?

B. IF SO, ARE SUCH STUDENTS RECOGNIZED BY THE HOST STATE AS FAMILY FORMING PART OF THE HOUSEHOLD OF A MEMBER OF THE MISSION AND, ACCORDINGLY, ACCORDED DIPLOMATIC PRIVILEGE AND IMMUNITIES IN ACCORDANCE WITH THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS?

2. WHETHER OR NOT MISSION INCLUDES SUCH DEPENDENTS, PLEASE PROVIDE BRIEF SUMMARY OF HOST STATE'S GENERAL POLICY/PRACTICE WITH REGARD TO ITS DEFINITION OF DIPLOMATIC FAMILY FOR THE PURPOSE OF GRANTING IMMUNITY (I. E., GENERAL RULE RE AGE, RESIDENCE, ETC.; ANY SPECIAL RESTRICTIONS; ANY PROCEDURE WHEREBY SPECIAL EXCEPTION MAY BE OBTAINED).

3. RESPONSE IS REQUESTED BY OCTOBER 30. PLEASE SLUG ALL RESPONSES FOR THE ATTENTION OF M/OFM AND L/M. SHULTZ

UNCLASSIFIED

UNCLASSIFIED Department of State

EXHIBIT - L

PAGE 01 STATE 356608
ORIGIN L-03

8822

INFO LOG-00 COPY-01 ADS-00 EUR-00 SS-00 CPR-02 MOFM-07
/B13 R

DRAFTED BY: L/SFP:BCRASHKOV

APPROVED BY: L:MGKOZAK

EUR/DOV:LSSELL

M/OFM: JHULINGS

-----347657 1415212 /47

R 141441Z NOV 86
FM SECSTATE WASHDC
TO AMEMBASSY MOSCOW
INFO AMCONSUL Leningrad

UNCLAS STATE 356608

E.O. 12356: N/A

TAGS: PREL, AMGT, ABLD, KREC, US, UR

SUBJECT: CRT NEGOTIATIONS: EXCHANGE OF NOTES

1. BEGIN SUMMARY. ON OCTOBER 31, AT THE CLOSE OF THE CRT TALKS, THE US AND THE USSR AGREED TO EXTEND CRIMINAL IMMUNITY TO FAMILY MEMBERS OF CONSULAR OFFICERS AND EMPLOYEES AND TO SUBSTITUTE CHAMPLAIN FOR ROUSES POINT, NEW YORK, AS THE AGREED UPON ENTRY/EXIT POINT FOR SOVIET VEHICULAR TRAFFIC BETWEEN CANADA AND THE US. THE TWO AGREEMENTS WERE FINALIZED BY EXCHANGES OF NOTES. THE TEXTS OF THE NOTES FOLLOWS. END SUMMARY.

2. BEGIN US TEXT. THE DEPARTMENT OF STATE REFERS THE EMBASSY OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO RECENT DISCUSSIONS BETWEEN REPRESENTATIVES OF THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING THE IMMUNITY OF FAMILY MEMBERS OF OFFICERS AND EMPLOYEES OF THEIR RESPECTIVE CONSULAR ESTABLISHMENTS FROM THE CRIMINAL JURISDICTION OF THE RECEIVING STATE. ON THE

BASIS OF THE EXCHANGES OF VIEWS, BOTH SIDES ARE CONVINCED THAT A RECIPROCAL ARRANGEMENT FOR THE IMMUNITY OF FAMILY MEMBERS OF SOVIET AND AMERICAN CONSULAR OFFICERS AND EMPLOYEES IS MUTUALLY BENEFICIAL AND THAT SUCH AN ARRANGEMENT WOULD BE IN THE INTERESTS OF BOTH GOVERNMENTS. ACCORDINGLY, IT IS PROPOSED, ON THE BASIS OF RECIPROCITY, THAT FAMILY MEMBERS FORMING PART OF THE HOUSEHOLDS OF CONSULAR OFFICERS AND EMPLOYEES WHO ARE NATIONALS OF THE SENDING STATE SHALL ENJOY IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE RECEIVING STATE, PROVIDED THAT SUCH FAMILY MEMBERS ARE NEITHER NATIONALS OF THE RECEIVING STATE NOR HAVE THE STATUS IN THE RECEIVING STATE OF AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE. IF THE FOREGOING IS ACCEPTABLE, IT IS PROPOSED THAT THE EMBASSY'S REPLY TO THAT EFFECT, TOGETHER WITH THIS NOTE, SHALL CONSTITUTE AN AGREEMENT TO BE EFFECTIVE ON THE DATE OF THE EMBASSY'S REPLY. END US TEXT.

3. BEGIN TRANSLATION OF USSR TEXT. THE EMBASSY OF THE UNION OF SOVIET SOCIALIST REPUBLICS REFERS TO THE NOTE OF OCTOBER 31, 1986, FROM THE DEPARTMENT OF STATE OF THE UNITED STATES OF AMERICA CONCERNING THE GRANTING OF IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE RECEIVING STATE TO MEMBERS OF THE FAMILIES OF CONSULAR OFFICERS AND EMPLOYEES OF THEIR CONSULAR ESTABLISHMENT. THE EMBASSY REGARDS AS ACCEPTABLE THE PROPOSAL CONTAINED IN THE DEPARTMENT OF STATE'S NOTE, THAT ON THE BASIS OF RECIPROCITY THE MEMBERS OF THE FAMILIES OF CONSULAR OFFICERS AND OF EMPLOYEES RESIDING

WITH THEM WHO ARE NATIONALS OF THE SENDING STATE SHALL ENJOY IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE RECEIVING STATE, PROVIDED THAT THESE FAMILY MEMBERS ARE NOT NATIONALS OF THE RECEIVING STATE AND DO NOT HAVE IN THE RECEIVING STATE THE STATUS OF ALIENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE. THIS EMBASSY NOTE, TOGETHER WITH THE ABOVE-MENTIONED NOTE OF THE DEPARTMENT OF STATE, CONSTITUTE AN AGREEMENT THAT SHALL ENTER INTO FORCE ON THE DATE OF THIS NOTE. END TRANSLATION OF USSR TEXT.

4. BEGIN US TEXT. THE DEPARTMENT OF STATE REFERS THE EMBASSY OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO RECENT DISCUSSIONS BETWEEN REPRESENTATIVES OF THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING

ENTRY/EXIT POINTS FOR USE BY THEIR RESPECTIVE DIPLOMATIC AND CONSULAR ESTABLISHMENTS. DURING THESE DISCUSSIONS, REPRESENTATIVES OF THE UNITED STATES INFORMED THE REPRESENTATIVES OF THE UNION OF SOVIET SOCIALIST REPUBLICS THAT THE UNITED STATES CUSTOMS SERVICE HAS RECENTLY ENHANCED ITS CROSSING POINT FACILITY AT CHAMPLAIN, NEW YORK, THAT IS IN CLOSE PROXIMITY TO THE EXISTING CROSSING POINT FACILITY AT ROUSES POINT, NEW YORK. THE GOVERNMENTS OF THE UNITED STATES AND THE UNION OF SOVIET SOCIALIST REPUBLICS HAD PREVIOUSLY AGREED UPON ROUSES POINT AS AN ENTRY/EXIT POINT, AS REFLECTED IN THE NOTE OF THE EMBASSY OF THE UNITED STATES TO THE MINISTRY OF FOREIGN AFFAIRS OF THE UNION OF SOVIET SOCIALIST REPUBLICS DATED JULY 30, 1984 (NO. 1432) CONFIRMING AGREEMENTS REACHED ON RELATED MATTERS DURING THE 1984 CONSULAR REVIEW TALKS. THE ENHANCED CROSSING POINT FACILITY AT CHAMPLAIN IS BOTH LARGER AND BETTER EQUIPPED TO DEAL WITH VEHICULAR TRAFFIC THAN THE FACILITY AT ROUSES POINT. THE UNITED STATES PROPOSED TO MAKE A TECHNICAL MODIFICATION TO THE PREVIOUS AGREEMENTS BY CHANGING THE ENTRY/EXIT POINT FROM ROUSES POINT TO CHAMPLAIN, NEW YORK, FOR VEHICULAR TRAFFIC. ROUSES POINT WILL CONTINUE TO SERVE AS THE AGREED UPON ENTRY/EXIT POINT WITH REGARD TO TRAIN TRAFFIC. IF THE FOREGOING IS ACCEPTABLE, IT IS PROPOSED THAT THE EMBASSY'S REPLY TO THAT EFFECT, TOGETHER WITH THIS NOTE, SHALL CONSTITUTE AN AGREEMENT TO BE EFFECTIVE ON THE DATE OF THE EMBASSY'S REPLY. END US TEXT.


5. BEGIN TRANSLATION OF USSR TEXT. THE EMBASSY OF THE UNION OF SOVIET SOCIALIST REPUBLICS REFERS TO THE NOTE OF OCTOBER 31, 1986, FROM THE DEPARTMENT OF STATE OF THE UNITED STATES OF AMERICA CONCERNING A CHANGE IN THE LOCATION OF THE POINTS OF ENTRANCE AND EXIT FOR THE STAFF OF SOVIET DIPLOMATIC AND CONSULAR ESTABLISHMENTS. THE EMBASSY REGARDS AS ACCEPTABLE THE DEPARTMENT OF STATE'S PROPOSAL TO CHANGE THE ENTRANCE AND EXIT POINTS FOR MOTOR VEHICLES FROM ROUSES POINT, NEW YORK, TO CHAMPLAIN, NEW YORK. ROUSES POINT SHALL BE USED AS AN ENTRANCE-EXIT POINT FOR RAILROAD TRANSPORTATION. THIS NOTE, TOGETHER WITH THE DEPARTMENT OF STATE NOTE ON THIS MATTER, CONSTITUTES AN UNDERSTANDING THAT SHALL ENTER INTO FORCE ON THE DATE OF THIS NOTE. END TRANSLATION OF USSR TEXT.

6. MINIMIZED CONSIDERED. SHULTZ

EXHIBIT - U

EMBASSY OF THE PHILIPPINES
WASHINGTON, D. C. 20038

EXHIBIT - M



The Embassy of the Philippines presents its compliments to the Department of State and has the honor to refer to the privileges and immunities of consular officers as expressed in the Consular Convention Between the United States of America and the Republic of the Philippines, done at Manila, March 14, 1947, which entered into force November 18, 1948.

Article I(2) of the aforementioned Consular Convention provides that "consular officers of each High Contracting Party shall ... enjoy reciprocally in the territories of the other High Contracting Party rights, privileges, exemptions and immunities no less favorable in any respect than the rights, privileges, exemptions and immunities which are enjoyed by consular officers of the same grade of any third country and in conformity with modern international usage." Taking note of Article 13 of the Consular Convention concluded by the United States in 1972 with Poland, the Republic of the Philippines hereby requests that, under the terms of Article I(2) of the United States-Philippine Convention, Philippine consular officers in the United States be accorded rights, privileges, exemptions and immunities no less favorable than those enjoyed by Polish consular officers in the United States. The Republic is pleased to confirm that consular officers of the United States enjoy reciprocally in the Philippines rights, privileges, exemptions and immunities no less favorable in any respect than those that are enjoyed by Polish consular officers in the United States pursuant to the 1972 United States-Poland Consular Convention.

The Embassy of the Philippines avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.



2 December 1982



EXHIBIT M1 1-1-10
EMBASSY OF THE PHILIPPINES
WASHINGTON, D. C. 20036

1983 MAR 19 AM 11 22

The Embassy of the Philippines presents its compliments to the Department of State and has the honor to request clarification on the immunities and privileges of consular officers and staff members of consular posts of the Philippines in the United States.

This clarification request is being made in the light of:

1. The most-favored-nation clause in the U.S.-Philippine Convention on Consular Relations of 1948; and
2. The acceptance by the U.S. Government of Philippine assertion of the full effectivity of this clause in the exchange of notes in December 1982 between the United States and the Philippine governments.

It is to be noted that a Seattle Judge, in the case of Estate of Silme G. Domingo et.al. v. Ferdinand Marcos et. al., accepted the diplomatic immunity claim of the Philippine Consul General thereat on the grounds that the U.S. accords such diplomatic immunity to the consular officers of a third country under the 1972 U.S.-Poland Consular Agreement.

Certain incidents have arisen in the past involving certain consular officers or staff members of Philippine consular posts in the United States resulting in unfortunate consequences, in part because of confusion or lack of understanding by local authorities of the immunities and privileges of said consular officers or staff members. The latest of these incidents happened in Honolulu, whereby the residence of a staff member of the Philippine Consulate General was entered by Immigration and Naturalization Service agents based on

-2-

alleged information received that the said staff member was already out of status. There was also the case involving another staff member at the Philippine Consulate General in Los Angeles who was wrongly detained in a women's correctional institution for alleged failure to testify as a witness in a Los Angeles Municipal Court.

Under the most-favored-nation clause of the 1948 U.S.-Philippine Consular Convention in relation to the 1972 U.S.-Poland Consular Agreement, clarification on the following would be highly appreciated:

- a. immunity of consular officers and staff members of Philippine Consular establishments from judicial and administrative jurisdiction;
- b. the inviolability of their persons;
- c. the inviolability of their premises; and
- d. other privileges and immunities.

The Embassy of the Philippines avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.



18 March 1985

A handwritten signature in dark ink, appearing to be a stylized name or set of initials.

EXHIBIT M

The Department of State refers to its note to the Embassy of the Philippines dated September 27, 1965, concerning the privileges and immunities of consular officers and staff members of consular posts of the Philippines in the United States, and wishes to offer the following clarification.

For the assistance of the Embassy, the Department's note repeated from the 1972 Consular Convention between the United States of America and the Government of the Polish People's Republic the provisions relating to the full immunities of consular officers and limited immunities of staff members of consular establishments. On close examination, it appears that the Department's note may convey the erroneous impression that all of these provisions govern the arrangement between the United States and the Philippines.

The exchange of notes which took place during December, 1962, invoking Article 1(2) of the 1947 Consular Convention between the United States of America and the Republic of the Philippines, provided only that Philippine consular officers in the United States would be accorded rights, privileges, exemptions, and immunities no less favorable than those enjoyed

by Polish consular officers in the United States. Thus, the rights, privileges, exemptions and immunities accorded staff members of consular establishments were not changed and are not governed by the provisions of the 1972 Consular Convention between the United States and Poland. Accordingly, Philippine consular employees enjoy only the limited rights, privileges, immunities and exemptions, accorded consular employees under the Vienna Convention on Consular Relations.

Department of State,
Washington,

OCTOBER 22 1985

EXHIBIT - M

The Department of State refers to the note of the Embassy of the Philippines dated December 2, 1982, concerning the 1947 Consular Convention in force between the United States of America and the Republic of the Philippines. The Embassy's note invokes Article I(2) of the Consular Convention, under which the Republic of the Philippines is entitled to obtain for the benefit of consular officers of the Philippines serving in the United States, on a reciprocal basis, rights, privileges, exemptions and immunities that are no less favorable than those enjoyed in the United States by consular officers of any third country.

In invoking this provision, the Republic of the Philippines has requested that its consular officers be accorded rights, privileges, exemption and immunities no less favorable than those enjoyed by Polish consular officers in the United States pursuant to the United States-Poland Consular Convention of 1972, taking note of Article 13 of that treaty. In this connection, the Embassy's note confirms that consular officers of the United States will enjoy reciprocally in the Philippines the same rights, privileges, exemptions and immunities as are requested for Philippine consular officers in the United States.

In accordance with the provisions of Article I(2) of the 1947 United States-Philippines Consular Convention, the request of the Republic of the Philippines is granted on the basis of the representations and guarantee of reciprocity set forth in

- 2 -

the Embassy's note. Accordingly, consular officers of the Philippines will henceforth enjoy reciprocally in the United States rights, privileges, exemptions and immunities no less favorable in any respect than those that are enjoyed by Polish consular officers in the United States pursuant to the 1972 United States-Poland Consular Convention.

John

Department of State,

Washington, December 6, 1982

EXHIBIT N

UNITED STATES MISSION
TO THE UNITED NATIONSEXHIBIT: N

(2) #201

March 16, 1987

The United States Mission to the United Nations presents its compliments to Permanent Missions to the United Nations and has the honor to advise them of the definition which applies to the term "family" for the purpose of privileges and immunities.

For the purposes of the application in the United States of the Vienna Convention on Diplomatic Relations, operative for United Nations Missions through Section 15 of the United States/United Nations Headquarters Agreement, "family... forming part of ...household" means the spouse of the member of the mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who reside exclusively in the principal's household. Additionally, the term "family" includes children under 23 years of age who are attending an institution of higher learning on a full-time basis.

Other persons who are not members of some other household, who reside exclusively in the principal's household, and who are recognized as members of the family forming part of the household, under exceptional circumstances and with the express approval of the United States Government, also may be considered "family" for the purposes of the Vienna Convention. In such exceptional cases, a formal request for consideration by the United States

Government must be submitted. The request should include full justification for the requested exception.

③ #201

The attention of Permanent Missions is also drawn to the applicable provisions of international law in respect of termination of status. Whenever any person who has been accorded "family" status in the United States ceases to reside with the principal, reaches an age beyond which family status is precluded, marries, or otherwise ceases to be part of the household of the principal, such person immediately ceases to be a "member of the family" within the meaning of international law and the Vienna Convention on Diplomatic Relations. Accordingly, all privileges and immunities to which such person previously had been entitled in the United States would terminate thirty days thereafter unless in a particular case a shorter time had been specified by the United States Government.

The United States Government recognizes the derivative visa status of those children who have reached the age of majority even though diplomatic privileges and immunities have ceased. The Missions may formally request continuation of "family" status for otherwise eligible children up to the age of 23 who are attending an institution of higher learning on a full time basis by submitting a diplomatic note to the United States Mission. Such requests should be received no later than thirty days prior to the child's twenty-first birthday or within thirty days of the receipt of this Note.

- 3 -

(4) + FINAL
201

The United States Mission requests that all Permanent Missions submit to the United States Mission a complete listing of all family members of diplomats, including their dates of birth by April 15, 1987. Diplomatic Notes detailing attendance at college for children between the ages of 21 and 23 or exceptional circumstances should also be sent to the United States Mission. Notes should be forwarded no later than thirty days following the receipt of this Note.

It is emphasized that the standard set forth in this note is solely to define members of the family pursuant to the terms of the Vienna Convention on Diplomatic Relations and is without prejudice to other definitions of family for other purposes which have an independent basis in international agreements or United States domestic law.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.

EXHIBIT - OFAMILY MEMBERS ENTITLED TO IMMUNITY - WASHINGTON, D.C. (August 1987)

<u>Category</u>	<u>Type of Immunity</u>	<u>Number</u>
<u>Embassy</u>		
Diplomatic Family Members	Full Criminal and Civil	6,878
Administrative & Technical Staff Family Members	Full Criminal/No Civil	5,609
Soviet Employees Family Members	Full Criminal and Civil	219
China Employees Family Members	Full Criminal and Civil	5

O.A.S.

Diplomatic Family Members	Full Criminal and Civil	494
---------------------------	-------------------------	-----

International Organizations

Principal Resident Representatives Family Members	Full Criminal and Civil	98
---	-------------------------	----

13,308

FAMILY MEMBERS ENTITLED TO IMMUNITY - NEW YORK CITY

<u>Category</u>	<u>Type of Immunity</u>	<u>Number</u>
<u>UNITED NATIONS</u>		
Diplomatic Family Members	Full Criminal and Civil	3,034

CONSULATESBilateral Consuls

China Family Members	Full Criminal/No Civil	34
Hungary Family Members	Full Criminal/No Civil	7
Poland Family Members	Full Criminal and Civil	28

Bilateral Consular Employees

Hungary Family Members	Full Criminal/No civil	7
------------------------	------------------------	---

3,089

FAMILY MEMBERS ENTITLED TO IMMUNITY
OUTSIDE WASHINGTON AND NEW YORK CITY

<u>Category</u>	<u>Type of Immunity</u>	<u>Number</u>
-----------------	-------------------------	---------------

Bilateral Consuls

USSR Family Members	Full Criminal/No Civil	11
China Family Members	Full Criminal/No Civil	52
Poland Family Members	Full Criminal and Civil	28
Philippines Family Members	Full Criminal/No Civil	75

Bilateral Consular Employees

USSR Family Members	Full Criminal/No Civil	18
China Family Members	Full Criminal/No Civil	1

Int'l Boundary & Water Commission

Family Members	Full Criminal and Civil	4
----------------	-------------------------	---

Total:		<hr/> 399
--------	--	-----------

<u>Total:</u> (All family members)		<hr/> 16,693
---------------------------------------	--	--------------

D

FOREIGN RELATIONS AUTHORIZATION ACT
ANALYSIS OF PROPOSED SENATE AMENDMENT

Conference Report on H.R. 1777,
Foreign Relations Authorization Act

(secs. 1001-1013)

Prepared by
Department of State
March 18, 1988

ANALYSIS OF PROPOSED SENATE AMENDMENT

On October 8, 1987 the Senate passed an amendment to H.R. 1777, the State Department Authorization Act, providing for prevention of abuse of diplomatic immunity. In section 137 of the Authorization Act as passed, Congress has required the Department to undertake a study and compile a report on various aspects of diplomatic immunity and its abuse, including "an analysis of proposed and other potential measures to address the problem." The Conference Report clarifies that this analysis is to include an analysis of the proposed Senate amendment. (Conference Report, at 125.) This part of the report presents a section by section analysis by the State Department of the proposed Senate amendment.

Section 1001 -- "Short Title."

ANALYSIS: No comment.

Section 1002 -- "Crimes Committed by Diplomats." This section amends the Foreign Missions Act, 22 U.S.C. 4301 et seq., as follows:

Subsection (a): to require the Director of the Office of Foreign Missions to develop and maintain records on each incident of alleged criminal misconduct on the part of a foreign diplomat, and to report annually to Congress on those incidents.

Subsection (b): to direct the Director of the Office of Foreign Missions to undertake an education program for local law enforcement officials to assure that local law enforcement officials know which members of the diplomatic community are entitled to what degree of immunity, under the Vienna Convention on Diplomatic Relations, and to take necessary steps to fully investigate, charge and prosecute crimes alleged to have been committed by foreign diplomats or members of their families, to the extent consistent with the Vienna Convention.

ANALYSIS:

As many of the functions mandated by this subsection may fall within the purview of offices other than the Office of Foreign Missions, the Secretary of State should have the flexibility to delegate these responsibilities as he deems

necessary and appropriate. In addition, these functions are more closely related to the subject matter of the Diplomatic Relations Act, 22 U.S.C. 254a, et seq., and should be set forth as amendments to that law.

The use of the phrase "an individual with immunity from the criminal jurisdiction of the United States under the Vienna Convention," does not adequately characterize the full range of persons that we believe Congress intended to cover in this subsection. Not only do diplomats and certain other types of diplomatic personnel have immunity from criminal jurisdiction, but under bilateral and multilateral agreements, and customary international law, certain other personnel are also entitled to this immunity. Thus, we recommend the following language for use throughout this legislation (or any other proposed legislation) to ensure that all persons who may be entitled to immunity from the criminal jurisdiction of the United States are covered by these subsections: "an individual entitled to immunity from the criminal jurisdiction of the United States," and setting forth the following definition in a definitions subsection of the legislation: "'an individual entitled to immunity from the criminal jurisdiction of the United States,' means any individual who is not subject to such criminal jurisdiction as a result of international obligations of the United States arising from multilateral agreements, bilateral agreements or customary international law."

We have no objection to the record-keeping and reporting requirements envisioned in these subsections. We already maintain records regarding immune personnel who are alleged to have committed serious offenses, and believe that sharing this information with Congress is appropriate due to Congress' oversight function and may help deter future offenses.

We also agree that education of local law enforcement officials is an important element in preventing abuse of immunities. We have sought to make U.S. law enforcement agencies aware of the limited scope of immunities to ensure that law enforcement authorities proceed whenever the perpetrator does not actually have immunity with respect to the acts in question. In addition, we encourage full scale investigation, even where the individual has immunity, to ensure that the charges are well-founded and to help us seek a waiver and compensation for the victim. We are pleased that Congress shares this interest and welcome its efforts to do more in this area.

Subsection (c): to prohibit the Department of State from influencing any criminal investigation, charge, or prosecution of any member of a foreign mission, or a family member, not entitled to immunity under the Vienna Convention.

ANALYSIS:

Again, the description of those who would be covered by this section is not complete. In order to exclude all persons who are entitled to immunity from the criminal jurisdiction of the United States pursuant to our international obligations, the phrase "not entitled to immunity from the criminal jurisdiction of the United States" should be used.

We are concerned about this provision's ban on "influence" by the Executive Branch. As worded we believe it may be intended or construed to ban all Executive Branch contact with state or local prosecutors. Obviously, it is not the policy of the federal government to bring undue or inappropriate pressure on state or local governments in connection with investigations or prosecutions of foreign persons. Nonetheless, in cases when a state or local government investigation or prosecution has foreign policy implications, the Executive not only has a right, but a duty, to communicate those implications to the appropriate state or local authorities. To the extent that this provision would limit such communications, and we note it is somewhat ambiguous, it would be unconstitutional. We are also concerned that such a provision may interfere with the Department's obligation to provide factual data to law enforcement authorities with regard to immunity or inviolability. The Department cannot be silent if asked about an individual's immunity. In the Kostadinov case, for example, a U.S. District Court improperly found a foreign government official immune, and the State Department had to intervene on appeal to establish that he did not have immunity. Congress may wish to enact a reporting requirement requiring the State Department to report all instances in which it communicates with state or local authorities in an effort to discourage any investigation, charge or prosecution, as a means of ensuring Congress is fully informed about all such activities and to prevent abuse.

Subsection (d): to require the Director of the Office of Foreign Missions to notify the Diplomatic Corps regarding U.S. policies relating to criminal offenses committed by members of the diplomatic community.

ANALYSIS:

As the function mandated by this subsection may fall within the purview of offices other than the Office of Foreign Missions, the Secretary of State should have the flexibility to delegate these responsibilities as he deems necessary and

appropriate. In addition, this function is more closely related to the subject matter of the Diplomatic Relations Act, 22 U.S.C. 254a, et seq., and should be set forth as an amendment to that law.

The State Department already makes every effort to notify the diplomatic community of its policies regarding criminal offenses committed by its members, most recently in the circular diplomatic note of September 21, 1987. We believe that notification of the community of our strict policies in this regard may help prevent abuses of immunity in the future.

Section 1003 -- to require the Director of the Office of Foreign Missions to develop and implement procedures for the registration and departure of diplomats and their families.

ANALYSIS:

As the function mandated by this subsection may fall within the purview of offices other than Office of Foreign Missions, the Secretary of State should have the flexibility to delegate these responsibilities as he deems necessary and appropriate. In addition, this function is more closely related to the subject matter of the Diplomatic Relations Act, 22 U.S.C. 254a, et seq., and should be set forth as an amendment to that law.

The use of the phrase "an individual with immunity from the criminal jurisdiction of the United States under the Vienna Convention," does not adequately characterize the full range of persons that we believe Congress intended to cover in this subsection. Thus, we recommend use of the language: "an individual entitled to immunity from the criminal jurisdiction of the United States," to ensure that all persons who may be entitled to immunity from the criminal jurisdiction of the United States are covered by this subsection.

As described by the Department in other sections of this report, the Department does already have extensive registration and departure procedures and is closely examining methods of improving these procedures.

Section 1004

Subsection (a): to set forth a procedure for the issuing of summons to any individual entitled to immunity under the Vienna Convention believed to have committed a serious crime, and to require the Secretary of State to request the sending

state to waive immunity of any individual charged with serious criminal offense, and if such waiver is not granted, to declare such individual persona non grata.

ANALYSIS:

The use of the phrase "an individual with immunity from the criminal jurisdiction of the United States under the Vienna Convention," does not adequately characterize the full range of persons that we believe Congress intended to cover in this subsection. Thus, we recommend use of the language: "an individual entitled to immunity from the criminal jurisdiction of the United States," to ensure that all persons who may be entitled to immunity from the criminal jurisdiction of the United States are covered by this subsection.

In addition, the definition of "serious criminal offense" should be limited to crimes of violence as defined in U.S. law, perhaps including those offenses where the offense causes serious personal injury. The Department also believes that the application of this proposal should be limited to situations where there is evidence tending to substantiate the charges.

The Department has difficulty with the requirement that a summons be issued before the Secretary of State can act. First, the issuance of the summons itself is an exercise of jurisdiction and may run afoul of the obligation to provide immunity from jurisdiction for certain officials and their dependents. Next, the absence of such a requirement that a summons first be issued enables the Department to proceed on the basis of the facts of the situation as soon as possible. Third, the requirement that a summons be issued may be impossible to enforce in state and local prosecutions, in which the federal government has no power to intervene.

The language requiring the Secretary to "declare non grata" any individual entitled to diplomatic immunity and implicated in a serious crime should be replaced with language providing that the Secretary "ensure the removal of" such individuals. This is a technical change necessary because legally we cannot declare family members of administrative and technical staff non grata; we ask that the family members be removed and declare the principal non grata if the individual does not leave, and we refuse to continue to accept administrative and technical staff. In addition, personnel are often recalled before we declare them non grata or unacceptable.

We have no objection to a requirement that the Secretary of State request a waiver of immunity in every serious case, but we object to Congress' requirement that without such a waiver

the Secretary must ensure the removal of the individual. Under Article II, section 3 of the Constitution, the ability to accept Ambassadors and other public Ministers is vested exclusively in the President. This ability includes a determination of who is and who is not a member of a foreign mission, and therefore includes the declaration that an official is non grata and no longer a member of a foreign mission.

Subsection (b): to require the Secretary of State to notify the Commissioner of the Immigration and Naturalization Service of each diplomat who leaves voluntarily or is asked to leave because of an alleged criminal offense.

Subsection (c): to amend section 212(a) of the Immigration and Nationality Act to bar reentry into the United States of any individual who has left the country voluntarily or who has been asked to leave because of alleged involvement in a serious criminal offense.

ANALYSIS:

The Department of State presently has in place a number of mechanisms to ensure that those who leave because of involvement in criminal activity are not able to come back into the United States. These mechanisms include entering data on the alleged offender into the Department's Automated Visa Lookout System as well as notification to the Immigration and Naturalization Service for insertion of the information into its lookout system. Every effort is made to cancel the United States visa of the alleged offender. The Bureau of Consular Affairs, as the entity charged with administration of this program, believes the present procedures in place for notification and exclusion of aliens are adequate to meet the purpose and intent of these proposed subsections.

Section 1005 -- to authorize the institution and maintenance of criminal prosecution provided that no measure is taken in derogation of an immune individual's inviolability or immunity.

ANALYSIS:

The Department of State has no objection to this provision, which recognizes our international law obligation to respect the immunity and inviolability of persons entitled to them under international agreements or customary international law.

Section 1006 -- to require both the Secretary of State and the Comptroller General of the United States to review and report to Congress on U.S. policies of providing privileges and immunities to foreign diplomats.

ANALYSIS:

This proposal was essentially enacted into law pursuant to section 137 of the Foreign Relations Authorization Act. Now that a report has been prepared by the Department of State, it would appear that there is no longer a need for legislation calling for such a report.

Section 1007 -- to require the Attorney General, in consultation with the Department of State, to review U.S. procedures for issuing visas to diplomats to the United States and the United Nations.

ANALYSIS:

As the Department of State is the primary agency responsible for issuing visas, this proposal should be changed, as a technical matter, to substitute "Secretary of State" for "Attorney General" and vice-versa. The Department of State and the Immigration and Naturalization Service have already begun the process of reviewing the visa issuance procedures in this area, and we welcome Congressional support and interest in this process.

Section 1008 -- to amend the definition of family in the Diplomatic Relations Act to exclude, except in exceptional cases, children aged 21 or over, or aged 23 or over if the child is a full-time student in a postsecondary institution.

ANALYSIS:

As the Department has noted in its report, this definition of family follows the State Department's practice and procedure, as enunciated in its Circular Notes to all diplomatic missions of May 22, 1986 and February 2, 1987. Thus, adoption of this standard would not affect the number of persons entitled to privileges and immunities. Although such an amendment may be useful to codify practice with regard to the Vienna Conventions on Diplomatic and Consular Relations, it would limit the U.S. Government's flexibility to modify the definition in the future. However, the definition does not exclude members of the family of diplomatic agents who are U.S. nationals, and members of the family of administrative and technical staff who are either U.S. nationals or permanent residents. In addition, we would like to include a provision permitting a more limited definition of family where warranted, such as for reciprocity reasons.

Section 1009 -- to increase the current minimum automobile liability insurance for members of foreign missions from \$300,000 to \$1,000,000.

ANALYSIS:

The feasibility of increasing such coverage, as well as an examination of the entire question of minimum liability insurance coverage, is currently under study as a requirement of Section 137(a) of the Foreign Relations Authorization Act.

Section 1010 -- to require the Director of the Office of Foreign Missions to set up a liability insurance scheme which can reasonably be expected to compensate victims of crimes committed by diplomats.

ANALYSIS:

Any requirement to establish an insurance fund to protect American citizens from criminal acts by diplomats does not appear to be feasible at this time. To the Department's knowledge, coverage for criminal liability insurance does not exist in the commercial insurance market. A foreign mission may, however, purchase general liability insurance which will protect the embassy against any acts of negligence.

This does not preclude a mission or missions from establishing an insurance fund financed by members of the diplomatic community. However, in the event that such a criminal insurance fund could be established and administered by the diplomatic community, significant difficulties would certainly arise in the determination at payment and the award of compensation outside the judicial system. Finally, there is no legal basis upon which we could require the diplomatic community to subscribe to such a compensation fund, and enforce any failures to subscribe or otherwise participate.

The question will be further discussed in terms of the overall insurance study being undertaken by the Office of Foreign Missions in the context of catastrophic coverage which could be construed to include the results from incidents involving diplomatic criminal acts.

Section 1011-- to institute procedures for certifying to a court immunity from criminal jurisdiction of any individual issued a summons by the court under the provisions of this act, under which the foreign minister of the sending state must request certification of immunity for an individual alleged to have committed a criminal offense to the head of the U.S. mission in the sending state who shall then make that request to the Secretary of State.

ANALYSIS:

This proposal errs in assuming that immunity must first be claimed for it to exist. Instead, under international obligations immunity exists unless expressly waived. Absent a waiver, the Department cannot be silent if asked by courts with regard to an individual's immunity, including cases where the individual may not have immunity. In addition, requiring the foreign minister himself to request immunity could cause extreme logistical difficulties in the execution of this requirement. We believe it is possible for Congress to ensure that these matters will reach the foreign ministry of the sending state by requiring, for example, that the State Department inform the foreign ministry of the seriousness of the charges where a serious offense has been committed. Finally, this proposal also fails to take into account the fact that the President, under the Constitution, receives Ambassadors Extraordinary and Plenipotentiary as the authoritative spokesmen for their country.

Section 1012 -- to require the President to take necessary steps to prevent the use of diplomatic pouches for illicit transportation of drugs, explosives, and weapons or any material used to foster terrorism.

ANALYSIS:

The President, in coordination with the Department of State, Department of Justice, Customs, the FBI, and the CIA, has been studying this matter and is developing steps to detect abuses when they occur as well as to prevent use of the pouch for any illicit purposes. In addition, we have concluded that abuses of the bag are relatively rare compared to the reasonable and proper uses routinely made of the bag. We welcome Congress' support for our endeavors in this area.

Section 1013 -- to provide a definition of the terms "serious criminal offense" and "Vienna Convention" as used in this legislation.

ANALYSIS:

The Department of State believes that the proposed definition of serious offense, which triggers many of the requirements under the other sections of the Senate Amendment, is too broad and not related to the concept of a serious offense under U.S. and state law. We recommend limiting the definition of serious offense to crimes of violence as defined in U.S. law, perhaps including those offenses where the offense causes serious personal injury.

As we have previously stated, the State Department does not believe that defining individuals with immunity by reference to the Vienna Diplomatic Convention alone is sufficient to describe those persons who are entitled to immunity from the criminal jurisdiction of the U.S. We recommend that persons who have immunity from the criminal jurisdiction of the United States be defined in the definitions subsection as follows: "'an individual entitled to immunity from the criminal jurisdiction of the United States,' means any individual who is not subject to such criminal jurisdiction as a result of international obligations of the United States arising from multilateral agreements, bilateral agreements or customary international law."